



County of Schenectady

NEW YORK

ANTHONY JASENSKI
CHAIR OF THE LEGISLATURE

GEOFFREY T. HALL
CLERK OF THE LEGISLATURE

SCHENECTADY COUNTY LEGISLATURE

County Office Building
620 State Street – 6th Floor
Schenectady, New York 12305
Tel: (518) 388-4280 Fax: (518) 388-4591
Website: www.schenectadycounty.com

JANUARY 2023
COMMITTEE MEETING SCHEDULE

DATE: 30 December 2022
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall; Clerk of the Legislature
SUBJECT: Committee Meetings
Tuesday, January 3, 2023
620 State Street
Legislative Chambers
Sixth Floor – 7:00 PM

7:00 P.M.	Committee on Health, Housing & Human Services Legislator Ostrelich, Chair	page 1
Followed by:	Committee on Public Facilities, Transportation & Infrastructure Legislator Patierne, Chair	page 46
Followed by:	Committee on Ways & Means Legislator Fields, Chair	page 153



Schenectady County Legislature

Committee on Health, Housing and Human Services

Hon. Michelle Ostrelich, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: December 30, 2022
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Committee on Health, Housing and Human Services
Honorable Michelle Ostrelich, Chair
Tuesday, January 3, 2023 at 7:00 p.m
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsor
HHHS	1 A RESOLUTION TO ACCEPT MONIES FROM THE NYS DEPARTMENT OF HEALTH FOR A PUBLIC HEALTH CORPS FELLOWSHIP PROGRAM	Legislator Ostrelich	
HHHS	2 A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO ENTER INTO A MULTI-YEAR AGREEMENT WITH THE NYS DEPARTMENT OF HEALTH FOR AN EARLY INTERVENTION PROGRAM	Legislator Ostrelich	

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Health, Housing and Human Services
Dual Reference: Ways and Means
Initiative: HHHS 1

Title of Proposed Resolution:

A RESOLUTION TO ACCEPT MONIES FROM THE NYS DEPARTMENT OF HEALTH FOR A PUBLIC HEALTH CORPS FELLOWSHIP PROGRAM

Purpose and General Idea:

Authorization to Accept Funding from the NYS Department of Health for the NYS Public Health Corps Fellowship Program

Summary of Specific Provisions:

Provides authorization to the Schenectady County Public Health Services (SCPHS) to accept \$607,549 in additional funding from the NYS Department of Health (NYSDOH) to continue the NYS Public Health Corps Fellowship (NYSPHC) program through 6/30/2024.

Effects Upon Present Law:

The Department of Finance provides the following amendment to the 2023 Operating Budget to accommodate increased federal funding passed through the NYS Department of Health associated with the ongoing NYS Public Health Corps Fellowship Program in Public Health Services.

Increase Appropriation Code By:

A544012.415095 Prevention Services - NYS Public Health Corps Fellowship	\$276,159
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Increase Revenue Code By:

A44012.440140	Federal Aid - NYS Public Health Corps Fellowship	\$276,159
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I recommend that this budget amendment be presented to the Schenectady County Legislature for consideration.

Justification:

The primary use of this funding will go towards the support of the public health fellowship, but it can also be used for the support of a project coordinator, administrative support, and other program expenses for another year. Public Health Services will continue to partner with Cornell Cooperative Extension of Schenectady for the hiring and supervision of the Public Health Fellows.

Sponsor: Legislator Ostrelich

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Keith Brown, Public Health Director
Jaclyn Falotico, Commissioner of Finance

Date: December 30, 2022

RE: Authorization to Accept Funding from the NYS Department of Health for the NYS Public Health Corps Fellowship Program

In the 2021 the State of New York announced the establishment of the New York State Public Health Corps (NYSPHC) that will build public health capacity to support COVID-19 vaccination operations and to increase preparedness for future public health emergencies. At that time Schenectady County received \$750,278 to initiate a local unit of Public Health Service Corps Fellow members through a contract with Cornell Cooperative Extension through 7/31/23.

The New York State Department of Public Health has announced Schenectady County will receive an additional \$607,549 to extend our local program through 6/30/24.

These additional funds will allow Public Health to continue to support its public health fellowships, the project coordinator position, administrative expenses, and other program expenses for an extra year. Public Health Services will continue to partner with Cornell Cooperative Extension of Schenectady for the hiring and supervision of the Public Health Fellows.

The attached memorandum from Jaclyn Falotico, Commissioner of Finance, details the necessary budget amendment.

I recommend your approval.

SCHENECTADY COUNTY PUBLIC HEALTH SERVICES
INTER-OFFICE MEMO
2022

TO: *Rory Fluman, County Manager*
From: *Keith Brown, Public Health Director*
RE: *Legislative Action – January Legislative Meeting*
Requesting Legislative approval to accept HRI/NYS DOH Grant to Support the New York State Public Health Corps Fellowship Program in Counties
Copies: *Jaclyn Falotico, Commissioner of Finance*
Kim Scheuer, Deputy Commissioner of Finance
Date: *December 19th, 2022*

Dear Rory,

Schenectady County Public Health Services (SCPHS) has been awarded an additional \$607,549 (in addition to the previously accepted \$750, 278) from NYSDOH to continue the New York State Public Health Corps Fellowship (NYSPHC) program through 6/30/24.

The current contract agreement with HRI is for the period of 9/1/21 through 7/31/23 and the additional funds will allow the continuation of current NYSPHC activities through the amended end date of 6/30/24. The primary purpose of this funding is to support public health fellowships. Funding will also be used to support the project coordinator, administrative support, and other costs such as supplies, continuing education, and travel expenses needed to support the fellows.

SCPHS will continue serve as the lead on this project, retaining a percentage of the funds for administration and oversight of the program and continuing to partner with Cornell Cooperative Extension for hiring and supervision of the Public Health Fellows. The current contract with Cornell Cooperative Extension is from 1/1/22 to 7/31/23, and we expect to renew the contract through 6/30/24.

I am requesting Legislative approval to accept these grant funds to continue the work we are doing to build a more robust public health infrastructure. Further, I request approval to renew our contract with Cornell Cooperative Extension through 6/30/24. Thank you for your assistance with this request.

Sincerely,

Keith Brown, MPH
Public Health Director

From: doh.sm.NYSPHEP
To: [Keith M. Brown](mailto:Keith.M.Brown)
Cc: [Claire Proffitt](mailto:Claire.Proffitt); [Rosa Tirino](mailto:Rosa.Tirino); [Sarah A. Pechar](mailto:Sarah.A.Pechar); [Lewis, Cori L. \(HEALTH\)](mailto:Lewis.Cori.L.(HEALTH)); [Guzman, Alberto \(HEALTH\)](mailto:Guzman.Alberto.(HEALTH))
Subject: RE: Public Health Corps Fellowship Program Contract Extension
Date: Thursday, December 8, 2022 4:40:44 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Public Health Partner,

This is to let you know that your Public Health Corps Fellowship Program contract will be increased by \$607,549, bringing your revised contract value to \$1,357,827 through 6/30/24.

In order to expedite the amendment process, the additional funds in the amount of \$607,549 will initially be placed in the restricted category. Within the next month or so, you will receive an amended contract agreement from Health Research, Inc.'s subcontracting unit (subcon@healthresearch.org). The only action required on your part to execute the amendment is to return a signed copy. After you return the signed amendment, you will be required to submit a budget modification to allocate the additional funds.

Please email nyspheap@health.ny.gov with any questions.

Cori Lewis
Grants Administration, Office of Public Health
150 Broadway, Suite 516
Menands, NY 12204
P: 518-408-2063
Email: cori.lewis@health.ny.gov

From: Keith M. Brown <keith.brown@schenectadycounty.com>
Sent: Thursday, December 1, 2022 10:46 AM
To: doh.sm.NYSPHEP <NYSPHEP@health.ny.gov>
Cc: Proffitt, Claire (SCHENECTADY Co) <claire.proffitt@schenectadycounty.com>; Rosa Tirino <rosa.tirino@schenectadycounty.com>; Sarah A. Pechar <sas66@cornell.edu>
Subject: Public Health Corps Fellowship Program Contract Extension

ATTENTION: This email came from an external source. Do not open attachments or click on links if you are not aware of the source of the information.

Greetings,

On behalf of Schenectady County Public Health Services I am formally requesting a time extension for our Public Health Corps Fellowship Program contract through June 30, 2024. As requested, below is a high level overview of our budgetary ask- please let me know if you have any further questions. Thank you, we look forward to continuing the great work our fellows have been doing!

\$607,549 requested

\$12,839 LHD staff to manage program (Project lead & Fiscal support and oversight)

\$6,419 Fringe on LHD staff salaries

\$4,138 Training & education, supplies and travel expense for LHD staff

\$1,284 IDC (10% of Direct Salary Expense)

\$582,869 CCE Sub-contractor expense (to hire & manage Fellows)

Keith Brown, MPH

Interim Public Health Director

Schenectady County Public Health Services

Pronouns: he/him/his

Phone: 518-386-2810

Cell: 518-527-6263

Fax: 518-386-2278

www.schenectadycounty.com

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County of Schenectady
620 State Street, 3rd Floor,
Schenectady, N. Y. 12305
(518) 388-4260
(518) 388-4248 Fax

County Finance

Memo

TO: Rory Fluman, County Manager
FROM: Jaclyn Falotico, Commissioner of Finance
DATE: December 29, 2022
SUBJECT: Budget Amendment – Additional NYS Public Health Corps Fellowship Funding – Schenectady County Public Health Services

The Department of Finance provides the following amendment to the 2023 Operating Budget to accommodate increased federal funding passed through the NYS Department of Health associated with the ongoing NYS Public Health Corps Fellowship Program in Public Health Services.

Increase Appropriation Code By:

A544012.415095	Prevention Services - NYS Public Health Corps Fellowship	<u>\$276,159</u>
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Increase Revenue Code By:

A44012.440140	Federal Aid - NYS Public Health Corps Fellowship	<u>\$276,159</u>
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I recommend that this budget amendment be presented to the Schenectady County Legislature for consideration.

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Health, Housing and Human Services
Dual Reference:
Initiative: HHHS 2

Title of Proposed Resolution:

A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO ENTER INTO A MULTI-YEAR AGREEMENT WITH THE NYS DEPARTMENT OF HEALTH FOR AN EARLY INTERVENTION PROGRAM

Purpose and General Idea:

Authorization to Enter into a Multi-Year Agreement with NYS Department of Health for the Early Intervention Program.

Summary of Specific Provisions:

Provides authorization to Enter into a Multi-Year Agreement with NYS Department of Health for the Early Intervention Program (EIP) beginning on April 1, 2023 and ending on March 31, 2028

Effects Upon Present Law:

None.

Justification:

The goal of EIP is to work with children under the age of 3 years old who have confirmed disability or established developmental delay, as defined by the State. This is a five-year agreement that starts on 4/1/23 and ends on 3/31/28, the intent is for the Schenectady County Public Health Services (SCPHS) to continue providing Service Coordination services for the EIP.

Sponsor: Legislator Ostrelich

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Keith Brown, Public Health Director

Date: December 30, 2022

Re: Authorization to Enter into a Multi-Year Agreement with the NYS Department of Health for the Early Intervention Program

Attached is a memorandum from Keith Brown, Director of Public Health, requesting authorization to enter into a multi-year agreement with the New York State Department of Health for the Early Intervention Program (EIP).

EIP works with children 3 years and younger with a confirmed disability or developmental delay of cognitive, physical, communicative, social-emotional, or adaptive nature as defined by the State. Service coordination, such as ensuring beneficiaries qualify for the program and case management including connection with needed services, is provided to EIP by SCPHS.

I am seeking authorization to enter into a new multi-year agreement beginning on April 1, 2023 and ending on March 31, 2028. The renewal of an agreement with NYSDOH allows for continued funding and the ongoing Service Coordination services for the EIP. In 2023, the County is expecting total expenses for its EIP to be approximately \$777,380. Of that amount, approximately \$354,252 will be supported by NYS funding.

I recommend your approval.

SCHENECTADY COUNTY PUBLIC HEALTH SERVICES
INTER-OFFICE MEMO
2022

TO: *Rory Fluman, County Manager*
From: *Keith Brown, Public Health Director*
RE: *Legislative Action – Special Request for December Rule Committee*
Requesting Legislative approval to give intent to continue to participate in the Early Intervention Program
Copies: *Jaclyn Falotico, Commissioner of Finance*
Date: *December 20, 2022*

Dear Rory,

Schenectady County Public Health Services (SCPHS) has been asked to state their intent for a multi-year agreement from the New York State Department of Health to continue to participate in the Early Intervention Program (EIP) from 4/1/2023-3/31/2028.

The goal of EIP is to work with children under the age of 3 years old who have a confirmed disability or established developmental delay, as defined by the State, in one or more of the following areas of development: physical, cognitive, communication, social-emotional, and/or adaptive. SCPHS provides service coordination for the EIP. A service coordinator is assigned to each child that qualifies and provides case management in assisting the families in navigating with providers and connecting with services. The services provided to the children include, but are not limited to, speech therapy, special instruction, occupational therapy, and physical therapy.

This is a five-year agreement that starts on 4/1/23 and ends on 3/31/28. This agreement is SCPHS intent to continue providing Service Coordination services for the EIP.

I am requesting Legislative approval to accept this agreement. Thank you for your assistance with this request.

Sincerely,

Keith Brown, MPH
Public Health Director

Agency: Notification/Re-Approval
As Early Intervention Evaluators,
Service Coordinators, and Service Providers

This document is to be used to notify the Department of Health of our agency's intent to continue participating in the Early Intervention Program (EIP) as an approved Agency Provider under Title II-A of Article 25 of the Public Health Law.

OR

To request to end our Early Intervention Provider Agreement and withdraw as an approved provider.

PLEASE TYPE OR PRINT USING BLACK INK

Notification

Please consider this as the 90-day notification prior to the expiration date of our current Early Intervention Provider Agreement (hereinafter referred to as Agreement) to:
(select one of the requests below)



We request to enter into a new Agreement with the Department. (Provider must complete and return the Re-Approval Application. Please see page 2.)

OR



We request to end our Agreement with the Department and withdraw as an EI provider, effective the day following the expiration date of our current Agreement (Please complete the remaining area in this box and return only this page to the email or mailing address found on page 7).

Agency Name:

Organization NPI:

EI State ID:

Authorizer's Name (EI Program Director/CEO only):

Authorizer's Original Handwritten Signature:

Title:

Date:

Contact's Telephone Number: Area Code: Number:

Re-Approval Application of Currently Approved Agency Providers

This application is for the re-approval of agencies as early intervention evaluators, service providers and service coordinators for the statewide Early Intervention (EI) Program under Title II-A of Article 25 of the Public Health Law.

By way of submitting this application for re-approval, this agency is attesting to its fiscal viability and that it will meet all payment obligations for services rendered on behalf of the agency.

**PLEASE TYPE OR PRINT USING BLACK INK
(all fields required)**

1. Applicant Information

Agency Name:

DBA where applicable:

Mailing Address:

Line 1:

Line 2:

City: State: Zip+4:

Primary Email Address:

Primary Phone Number: Area Code: Number: Ext:

Organization NPI: FEIN:

EI State ID: EI Medicaid Provider ID:

2. Corporate Structure/Disclosure Requirement

(Check the box that indicates the Type of Ownership of the applicant agency)

- Sole Proprietor
- Partnership
- Professional Limited Liability Company (PLLC)
- Limited Liability Partnership (LLP)
- Not-For-Profit Corporation
- Business Corporation
- Professional Corporation (PC)
- Limited Liability Company (LLC)
- Government Subdivision

Does your agency have a parent company? Yes No

Name of Parent Company:

3. Minimum Agency Staffing Requirements

Does your Agency employ a full-time EI Program Director who meets the qualification in 10 NYCRR Section 69-4.5 (a)(4)(viii)(a)?

Yes: No:

If Yes, Name of Program Director:

Profession:

Email Address:

Is the Program Director providing services to EI children?

Yes: No:

Does your Agency employ a minimum of two employees (excluding the program director) who are recognized as qualified personnel by the Early Intervention Program, as defined in 10 NYCRR Section 69-4.1, or service coordinators meeting the qualifications in 10 NYCRR Section 69-4.4, and, each available to provide a minimum of 20 hours per week early intervention services and/or evaluations and/or service coordination which may also include the delivery of services to individuals with disabilities outside of the EI program?

Yes: No:

If yes, please identify the two employees that meet this criteria:

Name:

Profession:

License/Certification Number:

Personal Email:

Name:

Profession:

License/Certification Number:

Personal Email:

4. NYS Education Department Waiver of Corporate Practice (if applicable)

Does your Agency have a NYSED corporate practice waiver?

No: Yes, expiration date:

5. Record of Legal Actions

Except for minor traffic violations, have you or any other Agency officer, principal, stockholder been convicted of any violation of the law (e.g., criminal, civil, or administrative charges) within the last five years?

Yes: No:

Have you or any other Agency officer, principal, stockholder or any agency that provides health and human services in which you or any other Agency officer, principal, stockholder held an office or position ever been restricted, suspended, revoked or fined by any Federal, State or local agency?

Yes: No:

Have you or any other Agency officer, principal, stockholder or any agency that provides health and human services in which you or any other Agency officer, principal, stockholder held an office or position ever been subject to an audit that resulted in recoupment?

Yes: No:

Have you or any other Agency officer, principal, stockholder or any agency that provides health and human services in which you or any other Agency officer, principal, stockholder held an office or position ever had a contract terminated, suspended or restricted for failure to perform or for any other reason?

Yes: No:

Has the applicant Agency ever been the subject of any child care enforcement actions (e.g., fines, sanctions, etc.) or had its approval, certification, or licensure restricted, revoked or suspended by the Office of Children and Family Services?

Yes: No:

Have you or any other Agency officer, principal, stockholder ever been restricted, suspended or excluded from participation as a Medicaid provider?

Yes: No:

Are there any criminal, civil or administrative charges pending against you or any other Agency officer, principal, stockholder?

Yes: No:

6. Agency Affiliations

Is the applicant Agency currently approved, certified or licensed by any of the following New York State agencies for services other than early intervention? If yes, please indicate type of service.

Department of Health

No:

Yes, Type of Service:

LCHSA

Education Department

No:

Yes, Type of Service:

Office of People with Developmental Disabilities

No:

Yes, Type of Service:

Office of Mental Health

No:

Yes, Type of Service:

Office of Children and Family Services

No:

Yes, Type of Service:

Has the applicant Agency ever been the subject of any enforcement actions (e.g., fines, sanctions, etc.) or had its approval, certification or licensure restricted, revoked or suspended by any of the above State agencies?

No:

Yes, Type of Action:

To answer statements 7 through 9 locate your agency's listing in the *Central Directory of Early Intervention Services and Resources*, found at

https://health.ny.gov/community/infants_children/early_intervention/service_providers/.

According to the webpage "Information for Service Providers" the Directory was last updated on:

12/4/2022

(record the date highlighted in yellow)

7. Available Personnel

I certify that the Agency has the qualified personnel (QP) listed in the Central Directory available to provide EI services.

Yes:

If no, using the box below, please indicate what QP are no longer available.

8. Service Models

I certify that the Agency has the service model(s) listed in the Central Directory available to provide EI services.

Yes:

If no, using the box below, please indicate what service model(s) are no longer available.

9. Languages

I certify that the Agency has the language(s) listed in the Central Directory available to provide EI services.

Yes:

If no, using the box below, please indicate what language(s) are no longer available.

10. Professional Development

I certify that the employees and Individual Providers under contract with our Agency demonstrate continued professional development on state and local policies and procedures of the EIP, including participation in Department sponsored training(s). The Agency maintains documentation of continuing education/training and can make such documentation available upon request to the Department and Municipality.

Yes, I agree:

No, please explain:

I, the undersigned, hereby certify under penalty of perjury, that I am an Agency officer, principal, stockholder duly authorized to subscribe and submit this application and that the information contained herein and attached hereto is accurate, true and complete in all material aspects. I further acknowledge that the application will be processed pursuant to the provisions of Title II-A of Article 25 of the Public Health Law, and the pertinent regulations adopted thereto.

Name:

Title:

Authorized Original Handwritten Signature:



Date:

PLEASE KEEP A COPY OF THIS DOCUMENT AND ALL ATTACHMENTS FOR YOUR RECORDS

Your application for reapproval **CANNOT** be processed if any required information is missing. Please return **ALL** required documents together as one packet. Please write your agency's name or EI State ID number in the upper right corner of all submitted pages. Incomplete packets will be returned.

11. Required Attachments

1. List each officer, principal, stockholder and their percentage of ownership of the applicant agency. Also, indicate if they will be providing services to EI children.
2. List each Quality Assurance Professional (Include their name, profession, license number, years of professional experience, and email address) employed by your agency for each particular early intervention service/profession, including service coordination, that your agency is providing, as defined in 10 NYCRR Section 69-4.5 (a)(4)(viii)(c).
3. If a Record of Legal Action is indicated in # 5, you are required to provide the following information for each action: Name of Individual, Date of Action, Type of Action, Location, and Explanation.
4. If your Agency provides EI services at a site that your agency rents, owns, leases or operates, provide the following information for each site: the name (if different from the Agency's name), site address (including county) and the type of EI service model(s) provided at that site.

Please return this document and all required attachments to the Department via email (EIPProviderAgreement@health.ny.gov) OR U.S. Mail:

**New York State Department of Health
Bureau of Early Intervention
Empire State Plaza- Corning Tower, Rm 287
Albany, NY 12237-0660**

12/15/2017

H:\2318\PAU NYEIS Manual\4\FYAgencyNotificationReApproval

New York State Department of Health
Bureau of Early Intervention

Early Intervention Provider Agreement (effective 2018)

This Provider Agreement is entered into by and between the New York State Department of Health (hereinafter referred to as the "Department"), and

<NYS Provider ID/State ID> _____ (hereinafter referred to as the "Provider"). Provider acknowledges that this agreement is made by and between the Department and Provider, as Provider is currently organized and constituted or presented. The Department reserves the right to terminate this agreement should the Provider reorganize or otherwise substantially change the character of its corporate or other business structure or presentation.

Purpose of Agreement

The purpose of this Agreement is to set forth the terms and conditions for participation in the Early Intervention Program (EIP) and to establish the obligations, expectations and relationship between the Department, municipalities within the State and the Provider.

Providers intending to receive service authorizations for early intervention services directly from a Municipality and payment from the Municipality for such services rendered must complete and comply with the attached **Appendix 1- Payee Provider Agreement/Service Authorizations and Payment**. Appendix 1 sets forth the terms and conditions for such authorizations and payment.

Definitions

When used herein, the following terms shall have the following meanings:

- "Applied behavior analysis" or "ABA" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.
- "Early Intervention Official" or "EIO" shall mean an appropriate municipal official designated by the chief executive officer of a municipality and an appropriate designee of such official.
- "Early Intervention Program" or "EIP" means the program established pursuant to Title II-A of Article 25 of the Public Health Law.
- "Family/Caregiver Support Group" is the provision of early intervention services to a group of parents, caregivers (foster parents, day care staff, etc.) and/or siblings of eligible children for the purposes of enhancing their capacity to care for and/or enhance the development of the eligible child and providing support, education, and guidance to such individuals relative to the child's unique developmental needs.
- "Group Developmental Intervention Visit" shall mean the provision of early intervention services by appropriate qualified personnel to eligible children in a group which may also include children without disabilities, at an approved Provider's site or in a community-based setting.
- "Home and Community Based Individual/Collateral Visits" shall mean the provision by appropriate qualified personnel of services to an eligible child and/or parent or other designated caregiver at the child's home or any other natural environment in which children under three years of age are typically found (including day care centers other than those located at the same premises as the Provider, and family day care homes).
- "Municipality" shall mean a county outside of the City of New York or in the case of a county located within the City of New York. For purposes of this agreement, "Municipality" shall further mean the Municipality in which the Provider renders evaluations, service coordination or early intervention services to children residing in such Municipality.
- "Office/Facility-Based Individual/Collateral Visits" shall mean the provision by appropriate qualified personnel of services to an eligible child and/or parent or other designated caregiver at an approved Provider's site (including day care centers located at the same premises as the Provider).



**Schenectady County
Public Health Services**

Children with Special Needs
107 Nott Terrace, Suite 306
Schenectady, New York 12308-3170
Phone: (518) 386-2815
Fax: (518) 386-2801

Keith M. Brown, MPH
Interim Public Health Director

Tricia Kandefar, M.S.Ed.
Director of Children with Special Needs

Required Attachments:

1. N/A
2. **Quality Assurance Professional for Service Coordination: Tricia Kandefar, Director of Programs for Children with Special Needs/EIO. Years of professional experience: 22**
Email: tricia.kandefar@schenectadycounty.com
3. N/A
4. N/A

III. Provider Responsibilities

- A. Provider shall comply with all applicable provisions of law, rule and regulation when participating in the Early Intervention Program, including but not limited to PHL §2550 et seq, 10 NYCRR SubPart 69-4, Part C of the Individuals with Disabilities Education Act and its regulations at 34 CFR Part 303, and the Family Educational Rights and Privacy Act (FERPA) and its regulations at 34 CFR Part 99.
- B. Agency Provider understands and hereby agrees that it is responsible for and shall ensure that its employees and Individual Providers under contract with such Agency Provider comply with the provisions of applicable law and regulations, and with the terms of this Agreement when delivering evaluations or services on behalf of the Agency Provider.
- C. Provider hereby agrees that Provider can and shall deliver services in the areas of the State identified by the Provider to the Department as part of this agreement but the Provider is not prohibited from providing services in additional areas of the State. Provider shall only conduct evaluations and deliver the services for which Provider is approved by the Department to deliver.
- D. Provider understands and hereby agrees that nothing in this Agreement or Appendix 1 of this Agreement shall be deemed to require or otherwise hold the Department responsible for making payment to the Provider for evaluations or services rendered under the EIP. Provider understands and agrees that reimbursement for evaluations and services is governed by PHL §2557 and §2559. In accordance with those sections, Providers who receive direct service authorizations from a Municipality shall, in the first instance and where applicable, seek reimbursement under a health insurance policy, plan or contract, including under the medical assistance program or the child health insurance program, prior to seeking reimbursement from a Municipality for services rendered to a child who has health insurer or health maintenance organization coverage. Payments will be made by insurers and the Medicaid Program directly to the Provider and remittance advices will be submitted by the third-party payers to the Department's state fiscal agent (SFA) with claims adjudication information. The SFA will inform the Provider of denied claims and will work with the Provider to address any denials resulting from inaccurate or incomplete information required for payment (for example, missing diagnostic or procedural codes.) Pursuant to PHL §2557, approved costs, other than those reimbursable under a health insurance policy, plan or contract, including under the medical assistance program or the child health insurance program, for evaluations and services shall be a charge upon the Municipality wherein an eligible child resides. Provider shall not seek or be entitled to reimbursement directly from the Department for evaluations or services rendered to eligible children under the EIP.
- E. Provider understands and hereby agrees that the Provider cannot be involved in any activity relating to the provision of evaluations or services rendered under the EIP if the Provider is excluded from Medicaid or Medicare.
- F. Agency Provider understands and hereby agrees that the Agency Provider must verify that a person is not excluded from Medicaid or Medicare at the time of hire or upon entering into contract and at least verify every thirty (30) days that current employees and contractors used by the Agency Provider have not been excluded.
- G. Provider understands and hereby agrees that nothing in this Agreement shall be construed as guaranteeing to Provider a specific number of evaluation assignments or service authorizations. Provider understands and agrees that the Provider may not be assigned any evaluations or provided with any service authorizations in the EIP, and/or that service authorizations may be modified at any time in accordance with PHL, for reasons including but not limited to the eligible child has progressed under the EIP and the IFSP team determines that a service should be reduced or is no longer needed. Provider further understands that payment for evaluations and services under the EIP is subject to funds being appropriated and made available therefor.
- H. Provider understands and hereby agrees that all sites are under the control of the Provider and will be maintained in compliance with all applicable laws and regulations and implement a policy for addressing health, safety and sanitation issues that conforms with standards established by the Department and where applicable, in conformance with the American with Disabilities Act. Provider further understands that all sites under the control of the Provider must be approved by the Department prior to rendering EIP services at each site.

- "Parent-Child Group" is a group comprised of parents or caregivers, children, and a minimum of one appropriate qualified Provider of early intervention services at an early intervention Provider's site or a community-based site (e.g., day care center, family day care, or other community settings).
- "Provider" shall mean an agency or individual approved in accordance with 10 NYCRR § 69-4.5 to deliver service coordination, evaluations and screenings and/or services in the EIP.
 - "Agency Provider" shall mean an entity which employs qualified personnel as defined in 10 NYCRR § 69-4.1(ak), and may contract with individual providers or other agency providers which are approved by the Department, for the provision of early intervention program evaluations and screenings, service coordination, and/or early intervention services.
 - "Individual Provider" shall mean a person who holds a state-approved or recognized certificate, license or registration in one of the disciplines set forth in 10 NYCRR § 69-4.1(ak) and who either receive service authorizations for early intervention services from a Municipality and/or are under contract with an agency provider.
- "Services" shall mean those early intervention services as defined in 10 NYCRR 69-4.1(l) that the Provider identified in the Provider's application to the Department as being able to provide, either directly or for Agency Providers through employees and/or contracts with Individual Providers or other Agency Providers.
- "Service authorization" shall mean approval by a municipality relating to specific services contained in a child's Individualize Family Service Plan (IFSP) and includes the following details: the provider of record; the type of service; whether it is a facility based or home and community based service; whether it is a basic or extended service; how many times per week the service can be provided; the rendering provider; and the diagnosis for the child.
- "Service Coordination Services" shall mean assistance provided by a service coordinator to enable an eligible child and the child's family to receive the rights, procedural safeguards and services that are authorized to be provided under the EIP.
- "State" shall mean the State of New York.

Now, therefore, the Department and Provider agree as follows:

I. **Appendix**

The Provider cannot receive service authorizations from a Municipality and claim for early intervention services rendered unless requested by the provider and approved by the Department in this agreement. The following appendix, when checked, shall be incorporated and made a part of this agreement as if fully set forth herein:

Appendix 1- Payee Provider Agreement/Service Authorizations and Payment

II. **Role of Department, Municipalities and Providers in the Early Intervention Program**

Pursuant to Public Health Law (PHL) § 2550, the Department is the lead agency responsible for the administration of the Early Intervention Program in this State. Each individual Municipality and the city of New York is responsible for the local administration of the program, which includes but is not limited to, accepting referrals of children potentially eligible for program services, assigning initial service coordinators, participating in IFSP meetings, ensuring that early intervention (EI) services contained in an IFSP are appropriately delivered, and reimbursing providers for services not covered by Medicaid or commercial insurance according to rates set by the Department pursuant to regulations. PHL authorizes the Department to contract with a fiscal agent that will handle provider claiming and payment. The Provider hereby understands and agrees that the claims submitted shall be accurate and complete, and shall reflect the actual service rendered. The Provider further understands and agrees that, pursuant to PHL § 2557(3) and (3-a), PHL § 2552(1) and 10 NYCRR § 69-4.12, both the Department and the Municipality are authorized to monitor and audit evaluators, service coordinators and Providers of services within the Municipality. Provider understands and agrees that certain provisions within this Agreement that require notice to the Municipality or includes the Municipality with respect to obligations or requirements, are designed to acknowledge the Municipality's role in the local administration of the Early Intervention Program and in the oversight of Providers in the delivery and payment for evaluations and services provided to children within such Municipality.

IV. Personnel

- A. Provider hereby affirms that Provider can deliver services on a twelve-month basis and provides flexibility in hours of service delivery, which includes but is not limited to, rendering services outside of standard business and/or operating hours. This includes but is not limited to service delivery on weekend and evening hours in accordance with eligible children's IFSPs.
- B. Provider shall maintain a statement from a health care provider which documents that the Provider, and employees and Individual Providers under contract with an Agency Provider, has no diagnosed disorder or condition that would preclude him/her from providing services. Such statement shall be obtained prior to the provision of services and updated on an annual basis thereafter.
- C. Provider shall maintain proof from a health care provider that the Provider, and/or employees and Individual Providers under contract with an Agency Provider, meet the following requirements, prior to provision of services:
- measles, mumps, and rubella titer and/or vaccine; and annual Mantoux/PPD or chest X-ray with the exception of EI Providers who are also licensed day care providers by the NYC Bureau of Day Care. NYC Bureau of Day Care Providers must demonstrate that upon commencement of work, a record of testing performed for tuberculosis infection, and further testing at any time, if required by the NYC Bureau of Day Care.
 - have the following recommended vaccines or has documented refusal, prior to the provision of EI Provider services: Hepatitis B vaccine, Tetanus immunization within the past 10 years, Diphtheria, Pertussis, Varicella, and Influenza.
- D. In accordance with Social Services Law (SSL) §424-a and §495, Agency Provider shall conduct a Staff Exclusion List (SEL) check of potential hires through the New York State Justice Center for the Protection of People with Special Needs (Justice Center) prior to conducting a Statewide Central Register (SCR) of Child Abuse and Maltreatment check. The Agency Provider is responsible for initiating this process with the state's Justice Center.
- E. Providers shall, in accordance with Social Services Law (SSL) § 424-a, ensure that Statewide Central Register Database Check Form LDSS-3370 is completed and submitted to the SCR for: (i) any person who is being actively considered for employment, and who will have the potential for regular and substantial contact with children who receive early intervention services; and (ii) any prospective Individual Provider providing goods and services who will have the potential for regular and substantial contact with children who receive services. Agency Provider shall complete the SCR database check and must receive an acceptable response from the SCR prior to authorizing or allowing any person or Individual Provider to have any unsupervised contact with a child receiving early intervention services. If any person about whom the Agency Provider has made an inquiry is found to be the subject of an indicated report of child abuse or maltreatment, such Agency Provider must, in accordance with SSL § 424-a, determine, on the basis of information it has available and in accordance with guidelines developed and disseminated by the NYS Office of Children and Family Services for child care services, whether to hire, retain or use the person as an employee, volunteer or contractor or to permit the person providing goods or services to have access to children being served by the Agency Provider. Whenever such person is hired, retained, used or given access to children in the EIP, such Agency Provider must maintain a written record, as part of the application file or employment or other personnel record of such person, of the specific reason(s) why such person was determined to be appropriate and acceptable as an employee, volunteer, contractor or provider of goods or services with access to children being served the Agency Provider.
- F. If Agency Provider denies employment or determines not to retain or utilize such person, Agency Provider shall comply with the requirements contained in SSL § 424-a.
- G. Provider shall review and become familiar with the Department's guidance and written policies and procedures for the provision of EI services, including but not limited to guidance regarding referral, eligibility, evaluations, provision of services, record keeping and claiming. Agency Providers shall ensure that its employees and Individual Providers under contract with such Agency Providers are familiar with such guidance, policies and procedures.
- H. Agency Providers shall only utilize qualified personnel as defined in 10 NYCRR §69-4.1 as appropriate for the provision of authorized services, and shall ensure that such qualified personnel maintain current

registration, certification or licensure in the area for which they are providing services on behalf of the agency.

- I. Individual Providers shall demonstrate proficiency in early childhood development and only render services within the scope of practice for which they are licensed and currently registered, or certified, as applicable, and within the areas in which the Individual Provider has been trained and educated, and with which he or she is familiar and competent.
- J. Agency Providers shall assign a speech language pathologist to provide services to a child when a speech service is authorized in a child's IFSP; the Agency Provider shall not assign a certified teacher when speech services are authorized in the child's IFSP and requested by the service coordinator.
- K. Provider, employees and independent contractors (including Service Coordinators) utilized by a Provider Agency to deliver services shall demonstrate continued professional development related to their professional field of practice, including but not limited to family-centered services, child outcomes, quality improvement and on state and municipal policies and procedures of the early intervention program, including participation in Department-sponsored training. Provider shall participate in a minimum of ten clock (10) hours of professional development activities per year. Such professional development activities are not restricted to Department sponsored training and may include other professional activities necessary for licensure and activities identified by the Provider to increase the Provider's professional skills and knowledge. Activities may include but are not limited to formal continuing education courses/workshops, formal academic study, independent study, mentoring, and in-service training programs. Activities may also include Department sponsored training, Municipal sponsored training, webcasts, and webinars which may be provided particularly during periods of introduction of a new policy and procedure. Provider will maintain documentation of professional development activities and make such documentation available upon request to the Department and/or Municipality.
- L. Agency Providers will, before utilizing a student/intern, a physical therapy assistant or an occupational therapy assistant for the provision of EI provider services, notify the Municipality, service coordinator and parent that the Agency Provider intends to have a student/intern, a physical therapy assistant or an occupational therapy assistant provide services under the supervision of a licensed practitioner; provide the Municipality, service coordinator and parent a written plan for how the supervising practitioner will assume professional responsibility for the services provided under his or her direction and how the need for continued services will be monitored; and have agreement from the Municipality, service coordinator and parent prior to the provision of services by a student/intern, a physical therapy assistant or an occupational therapy assistant.
- M. Agency Providers shall maintain, using the Department's electronic database, a contemporaneous list of their employees and Individual Providers under contract with such Agency Provider which reflects the current staff available to provide EI services.
- N. Provider shall be familiar with and comply with all applicable Medicaid rules and regulations. Provider shall not engage in any act which constitutes an unacceptable practice under the Medical Assistance Program as enumerated in Title 18 of the New York Code of Rules and Regulations Section 515.2(a) and (b) (1) through (b) (15), (17) and (18). Agency Providers shall not utilize employees or Individual Providers or vendors, who have been excluded from participation in the Medical Assistance Program. Agency Providers shall ensure that they do not employ, or are affiliated with, any individual or agency, which has been excluded from either the Medicare or the Medicaid program. Providers shall routinely but no less than every thirty (30) days review federal and state databases to determine if employees, prospective employees, and contractors (Individuals and other Agency Providers), have been excluded or terminated from participation in the Medical Assistance Program.
- O. Provider shall provide their own equipment and supplies including toys necessary to conduct their business. Provider understands that it is not the responsibility of the Department or Municipalities to supply such equipment, supplies or toys. Provider shall comply with applicable health and safety standards, including those related to use of toys, equipment and supplies.
- P. Provider shall obtain access to the Department's electronic database for at least one person for the purpose of managing EI information necessary to conduct business utilizing the electronic database.

V. Services

- A. Provider shall use informed clinical opinion, observation and ongoing assessment in collaboration with the family/caregiver and additional team members to prioritize identified family/caregiver areas of concern. Provider shall be an active participant in the development of integrated family & child focused goals and outcomes for the IFSP. As a licensed and/or certified professional focused on their field of practice, Provider shall encourage families and caregivers to collaboratively identify priorities as they relate to a child's participation in everyday activities; observe families/caregivers and their children to engage in activities when clinically appropriate; collaboratively document child and family strengths, accomplishments, interests and needs which will assist a family to be an informed advocate for their child/children and active member of the IFSP team; and inform an IFSP team, if the provider is unable to attend an IFSP meeting.
- B. Provider shall render services in conformance with the child's and family's IFSP, including but not limited to functional outcomes, the duration specified, location and frequency of such service.
- C. Provider understands and agrees that the use of aversive intervention in any form is strictly prohibited when providing EIP services. Aversive intervention is defined in 10 NYCRR § 69-4.9 to mean an intervention that is intended to induce extreme or excessive and/or non-therapeutic pain or discomfort to a child for the purpose of modifying or changing a child's behavior, limiting a child's free range of movement, or eliminating or reducing maladaptive behaviors, including but not limited to the following: contingent application of noxious, painful, intrusive stimuli or activities; any form of noxious, painful, or intrusive spray (including water or other mists), inhalant, or tastes; contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink to make it distasteful; movement limitation used as punishment, including but not limited to helmets and mechanical restraint devices; physical restraints; blindfolds; and white noise helmets and electric shock.
- D. Provider shall work collaboratively with the family to identify strategies/activities and the necessary services and supports to achieve IFSP outcomes including but not limited to developing and enhancing the family's capacity to support their child's learning and development between visits; building on the interests and strengths of the child and family; and determining the intensity, and method for each service to be reasonable and not burdensome to the family.
- E. Provider shall use a child developmental approach in intervention strategies, incorporating evidence-based child development practices with necessary adaptations to foster and promote age appropriate development.
- F. Provider shall use an individualized approach, including consideration and respect for cultural and religious, lifestyle, ethnic, and other individual and family characteristics.
- G. Provider shall be an active participant in the development and implementation of a transition plan for a child transitioning from the EIP.

VI. Documentation and Recordkeeping

- A. When required by the Department, Provider shall utilize a standardized reporting format when reporting on services delivered in the EIP.
- B. Provider shall maintain documentation necessary to support claiming to third party payors (Medicaid and commercial insurers), the Municipality and State. In instances where corrections are made to documentation required to support claiming, the rendering provider shall leave his or her original writing intact, strike through the mistake with a single line, make a legible correction and clearly write his or her initials and date correction was made next to the correction. Provider shall not use white-out in an EI record.
- C. Provider shall maintain contemporaneous session notes, utilizing a Department standardized form when required by the Department, following each child and family contact, which shall include the information required in 10 NYCRR 69-4.26(c) including: the recipient's name, date of service, type of service provided, time the Provider began delivering therapy to child and end time, brief description of the recipient's progress made during the session as related to the outcome contained in the IFSP, name, title, and signature of the person rendering the service, date the session note was created, and signature of the

parent or caregiver which documents that the service was received by the child on the date and during the period of time as recorded by the Provider.

- D. Provider understands and hereby agrees that all 'make-up' sessions must be consistent with Department regulations and guidance, occur in conformance with the IFSP and session notes created for 'make-up' sessions must accurately state that the session is in place of a previously scheduled session, and reflect the date/time that the 'make-up' session occurred. Provider further understands and hereby agrees that Provider risks non-payment for inaccurate claims.
 - E. Original session notes must be maintained in accordance with the requirements of 10 NYCRR § 69-4.26. In situations where an Individual Provider is rendering services to a child and family under an authorization to such Provider by a Municipality or when the Individual Provider is rendering services as a contractor to an Agency Provider, the Individual Provider shall maintain the original session notes. A Municipality or Agency Provider may request or require submission of copies of such Individual Provider's session notes. Original EI records generated by qualified personnel who are employees of a Municipality or Agency Provider shall be retained by the respective Municipality or Agency Provider.
 - F. Provider shall make periodic progress notes summarizing the effectiveness of the service and the progress being made toward outcomes included in the child's and family's IFSP. Progress notes shall be made at a minimum frequency of twice during the IFSP yearly cycle - for six-month IFSP reviews and for the annual IFSP review. The Department may direct that the progress notes be made in a certain format or manner. Progress notes shall be included in the child's record and shall be available upon request by the service coordinator, Municipality, or Department.
 - G. Provider shall maintain records that document the performance of services required to be completed by Provider on behalf of eligible children and their families, including but not limited to: parental consents for provision of evaluations and services; reports, session notes, progress notes, and other documentation related to evaluations or service delivery; a copy of the IFSP; service authorizations; physicians orders and/or prescriptions for services provided and other documents as may be required in regulation.
 - H. Provider shall maintain accurate and complete records that support claiming for actual services rendered. Provider shall only submit claims for payment that accurately reflect the service provided by qualified personnel authorized to provide the service on the date such service is provided and which shall be consistent with the child's IFSP.
 - I. Provider shall maintain complete records and data that support information necessary for the Department to report annually through the Part C Annual Performance Report (Part C- APR). Information/data will include but is not limited to timely IFSP, timely services, and transition steps and services. The Department may direct that information be made in a certain format or manner.
 - J. Provider shall retain EI records pertaining to a child and family for a minimum of six years from the date that care, services, or supplies were provided to the child and family. Individual Providers who are licensed, registered, or certified under state education law must retain child and family records for the period of time set forth in the laws and regulation that apply to their profession.
- VII. Notifications**
- A. Provider shall make reasonable efforts to notify the child's parent/family/caregiver prior to the date and/or within one hour prior to the time on which a EI provider service is to be delivered, of any temporary inability to deliver such service due to circumstances such as illness, emergencies, hazardous weather, or other circumstances which impede the provider's ability to deliver the service. If circumstances prevent such notification prior to a visit, notification should be provided as soon as possible following the missed visit. Provider shall also make reasonable efforts to notify the child's parent/family/caregiver if the Provider will be more than fifteen (15) minutes late for a scheduled session, due to uncontrollable circumstances.
 - B. Provider shall make reasonable efforts to notify the Department and municipality (s) within five (5) business days of any prolonged closure or unavailability to provide EI services to children located in a specific municipality
 - C. Provider shall notify the child's parent and service coordinator at least five (5) business days prior to any scheduled absences due to vacation, professional activities, or other circumstances, including the dates for

which the Provider will be unable to deliver services to the child and family in conformance with the IFSP and the date on which services will be resumed by such Provider. Missed visits may be rescheduled and delivered to the child and family by such Provider, as clinically appropriate, agreed upon by the parent and in conformance with the child's and family's IFSP.

- D. Provider shall notify the child's service coordinator and early intervention official (EIO) of the intent to permanently terminate the delivery of early intervention program services to a child and the child's family, for any reason, at least thirty (30) calendar days prior to the date on which the Provider intends to cease providing services.
- E. Provider shall notify the child's service coordinator within twenty-four (24) hours of the child's absence from more than three (3) consecutive scheduled sessions for the delivery of services, indicating the reason for said absence, if known.
- F. Provider shall notify the service coordinator and the Municipality within two (2) business days, when a parent voluntarily withdraws their child from early intervention services with a Provider, for any reason.
- G. Provider shall notify the Department, in writing, within five (5) calendar days, in the event Provider becomes a party to any litigation, investigation or transaction that may reasonably be considered to have a material impact on Provider's ability to perform under this Agreement.
- H. Individual Providers shall notify the Department within two (2) business days if their license is suspended, revoked, limited or annulled, regardless of whether the suspension or limitation is stayed.
- I. Provider shall notify the Department immediately upon becoming aware that the, Medicare or Medicaid certification of Provider, or any employee or Individual Provider under contract with the Agency Provider is restricted, suspended or temporarily and/or permanently revoked by any regulatory authority.

VIII. Mandated Reporting

- A. Providers shall report or cause to be reported suspected cases of child abuse and/or maltreatment to the SCR whenever they believe that there is reasonable cause to suspect that a child, made known to them in their official capacity as a Provider under the EIP, is or has been abused or maltreated.
- B. Provider shall develop and maintain policies and procedures regarding the reporting of suspected child abuse and/or maltreatment. Agency Providers shall ensure that its employees and Individual Providers under contract with such Agency Provider are aware of the Agency Provider's policies and procedures in this regard.

IX. Confidentiality

- A. Provider shall preserve the confidentiality of all electronic and/or hard-copy data and information, both historical and current data, that is shared, received, collected, or obtained in relation to services provided in the EIP, in accordance with applicable law and regulations, including but not limited to FERPA and 10 NYCRR § 69-4.17.
- B. Provider shall keep child records secure, whether records are stored in a business location, an Individual Provider's home or at a secure location outside the Provider's home. Provider shall have a written policy on confidentiality and meet all confidentiality requirements of the EIP, including physical security.
- C. Provider shall prevent the disclosure, redisclosure or release of such data or information, except as expressly authorized by law. Provider shall not use such data or information for personal benefit.
- D. Provider agrees to develop and maintain specific procedures ensuring the protection of health history information related to an individual who has been diagnosed as having AIDS or HIV-related illness or HIV infection or laboratory tests performed on an individual for HIV-related illness.
- E. Agency Provider agrees to comply with the confidentiality and disclosure requirements set forth in and in Part 403 of New York State Social Service Law and Section 2782 of Public Health Law, and ensure that staff, to whom confidential HIV-related information is disclosed as a necessity for providing services, are fully informed of the penalties and fines for redisclosure in violation of State law and regulations.

- F The Provider fully agrees that any disclosure of confidential HIV-related information shall be accompanied by a written statement as follows:

This information has been disclosed to you from confidential records, which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient authorization for further disclosure.

X. Marketing

- A. Provider shall comply with the provisions of 10 NYCRR § 69-4.5(e).
- B. Provider shall not represent themselves as, or claim to be, an officer or employee of the State or Municipality by reason of this Agreement.
- C. Provider shall ensure that marketing and advertising materials adhere to the Department's Marketing Standards for Early Intervention Service Providers and adequately inform parents or guardians of children less than three years of age who are suspected of having a disability or are at risk of disability about the EIP.

XI. Auditing, Monitoring, Due Process

- A. Provider shall cooperate with any announced or unannounced fiscal audit, programmatic monitoring and/or quality improvement monitoring by the Department, Municipality or its respective designee. Provider shall maintain and make available to the Department and Municipality upon request, complete financial records and clinical documentation related to the provision of services to permit a full fiscal audit by appropriate State and municipal authorities.
- B. Provider shall make available such records or documents that are requested on the date and time of the visit, and shall provide access to the facility for facility based Providers.
- C. Provider shall render diligently to the Department and the Municipality any and all cooperation, without additional compensation, that may be required as part of an investigation, mediation, or hearing.
- D. Provider shall demonstrate full and faithful cooperation with any investigation, audit or inquiry conducted by the Department, Municipality or State or Federal governmental agency or authority that is empowered directly or by designation to compel attendance of witnesses and to examine witnesses under oath, or conducted by a governmental agency that is a party in interest to the transaction, that is subject of the investigation, audit or inquiry.
- E. Provider shall render diligently to the Municipality and Department any and all cooperation, without additional compensation, that may be required to defend the Municipality and/or Department against any claims, demand, or action that pertain to Provider that may be brought against the Municipality and/or the Department in connection with services rendered by or on behalf of Provider to children under the Early Intervention Program and/or the terms and provisions of this Agreement.
- F. Provider shall implement to the satisfaction of the Department, corrective actions deemed necessary by the Department or its designee to bring the Provider into compliance with applicable State and Federal statutes and regulations governing the EIP. Provider shall further implement, to the satisfaction of the Municipality, any corrective actions as may be required by Municipality after an audit or monitoring of the Provider by the Municipality in accordance with PHL § 2557(3-a), PHL § 2552(1) and 10 NYCRR § 69-4.12.
- G. Provider understands and hereby agrees that payment by the Municipality may be withheld or suspended if upon audit or monitoring by the Department or Municipality it is found that the Provider, and/or employees or individual Providers under contract with an Agency Provider, did not provide the services claimed for, the services were not provided in conformance with a child's IFSP, the rendering provider was not qualified by licensure, certification or registration to deliver the services, and/or the services were not provided in conformance with law or regulation or this Agreement.

XII. EI Model Specific Responsibilities**A. Service Coordination**

- A1.** Provider, and employees and Individual Providers under contract with an Agency Provider, who deliver service coordination services, shall, in accordance with 10 NYCRR §§ 69-4.4 and 69-4.5(x) demonstrate continued professional development on state and local policies and procedures of the EIP, including participation in Department-sponsored training. Provider shall maintain documentation of continuing education/training and make such documentation available upon request to the Department and Municipality.
- A2.** Provider shall ensure that they, their employees and independent contractors utilized by the Provider Agency demonstrate participation in on-going training including but not limited to introductory service coordination, advanced service coordination, evaluation, and IFSP training sponsored or approved by the Department of Health, when Provider is approved for service coordination services.
- A3.** Provider, and employees and Individual Providers utilized by an Agency Provider who deliver service coordination services on behalf of the Agency Provider shall complete introductory service coordination training sponsored or approved by the Department of Health prior to rendering service coordination services and participate in a minimum of one (1) professional development activity totaling a minimum of 1 1/2 clock hours directly related to service coordination per calendar year. Such activity is not limited to Department sponsored training but can include other professional development activities which focus on enhancing skills necessary for service coordinators to increase their competency to provide service coordination activities.
- A4.** Provider shall render all service coordination activities as set forth in applicable law and regulations and as specified in the child's IFSP.
- A5.** Provider of initial and/or ongoing service coordination services shall document all activities (billable and non-billable) related to the performance of their duties which includes the following information: recipient's name; date of service; a description of the specific service coordination activity performed; name, date of contact, and purpose of contact for providers or others contacted on behalf of the child and family as necessary to implement the IFSP; start and end time for each contact; and name, title and signature of the service coordinator, as applicable. The Department may require that the Provider document such activities using a standard form or format.
- A6.** Provider shall provide Service Coordination as authorized by the Municipality when authorized for initial service coordination, and when authorized for on-going service coordination for a child/family, up to the limit of units of service coordination prescribed in the IFSP and indicated on the service authorization. Provider shall provide additional units of service only if authorized in accordance with a fully executed amendment to the IFSP, which shall include signatures of the Parent (s) and EIO/designee and IFSP team members.
- A7.** Provider shall prepare and submit reports and/or data regarding Service Coordination activities as requested by the Department or Municipality in a manner and format as may be requested by the Department or Municipality.
- A8.** Provider shall be reasonably accessible to the child's evaluator, other Providers of EI services, the Department and the Municipality during standard business hours.
- A9.** The Provider shall be reasonably available to the parent in a manner that does not limit service access to daytime and/or weekday hours and does not limit access to a specific location. The Provider shall ensure that accessibility for service coordination are available to families in non-traditional schedules and through a variety of methods and locations. Provider shall be responsible for informing families of changes to their contact number, email address, and the specific times and places of their accessibility.
- A10.** Provider shall communicate with the family about the purpose of Early Intervention, provide all information to the family in the family's dominant language or other mode of communication unless clearly not feasible to do so, and shall ensure that the family has received or has access to the

current version of Early Intervention Steps: A Parent's Basic Guide to the Early Intervention Program, the parent's handbook that provides information about the program upon referral to the EIP.

- A11. Provider shall describe the rationale for services in natural environments. Provider shall describe each step of the IFSP process, including its purpose, and what service delivery might look like.
- A12. Provider shall collaboratively balance listening to the family with sharing information and shall use open-ended questions that encourage the family to share their thoughts and concerns. Provider shall discover family preferences for sharing and receiving information as well as the family's teaching and learning strategies they prefer to use with their child.
- A13. Provider shall review with the Ei family the EIP procedural safeguards/due process rights upon initial contact with the family and whenever the family may disagree with an eligibility decision or with the early intervention official/designee decision regarding services for their child/family.
- A14. Provider shall assist families to obtain the services and/or assistance they need.
- A15. Provider shall inform the family that services must be at no cost to families, use of Medicaid and/or third party insurance for payment of services is required under the EIP, that any deductible or co-payments is not the responsibility of the family; the use of third party insurance for payment of early intervention services will not be applied against lifetime or annual limits specified in their insurance policy, if such policy is subject to New York State law and regulation; and that the Municipality/Department/service coordinator will not obtain payment from their insurer, if such policy is not subject to New York State law and regulation and if the insurer is therefore not prohibited from and will apply payment for early intervention services to the annual and lifetime limits specified in their insurance policy. Provider shall collect, from the family, information on any insurance policy, plan or contract under which an eligible child has coverage.
- A16. Provider shall review all options for evaluation and screening with the family from the list of approved evaluators including location, types of evaluations performed, and settings for evaluations (e.g., home vs. at the evaluation agency). Upon selection of an evaluator by the family, the Provider shall ascertain from the family any needs the family may have in accessing the evaluation. Provider shall at the family's request, assist the family in arranging of the evaluation after the family selects from the list of approved evaluators.
- A17. Provider shall contact the family to ensure that the family has received information concerning alternative approved evaluators and ascertain from the family any needs the family may have in accessing the evaluation, if the family has accessed an approved evaluator prior to contact by the initial service coordinator.
- A18. Provider, upon receipt of the results of the evaluation, may with parental consent and the approval of the early intervention official, require additional diagnostic information regarding the condition of the child, provided that such information is not unnecessarily duplicative or invasive to the child according to guidelines of the Department of Health. One such example is that such information may assist the IFSP team to determine the appropriate type, location, frequency or duration of the Ei provider service.
- A19. Provider shall prior to obtaining written parental consent for additional diagnostic information, provide the family with a written explanation which shall include: diagnostic information requested; reasons for obtaining the information, and use of the information; location of diagnostic testing; source of payment and that no costs shall be incurred by the parent; a statement that the information shall not be used to refute eligibility; and a statement that the meeting to formulate the Individualized Family Service Plan shall be held within the 45 day time limit.
- A20. The Provider shall, with parent consent, notify the Office for People with Developmental Disabilities' regional developmental disabilities services office of the potential eligibility of a child for programs or services available under that Office, if the Provider, in consultation with the evaluator, identifies the child as potentially eligible for programs or services offered by or under such office.

- A21. Provider shall, upon the determination of a child as ineligible for EIP services, inform the family of the right to due process procedures as set forth in 10 NYCRR § 69-4.17 and shall inform the family of other services which the family may choose to access and for which the child may be eligible and offer assistance with appropriate referrals.
- A22. Provider shall collect from the family a written referral from a primary care provider as documentation, for eligible children, of the medical necessity of EIP services in order to support private insurance claiming.
- A23. Provider shall assist the family in preparing for the meeting to develop the IFSP, including facilitating their understanding of the child's multidisciplinary evaluation and identifying their resources, priorities, and concerns related to their child's development.
- A24. Provider shall inform the family of the opportunity to select an ongoing service coordinator, who may be different from the initial service coordinator, at the Individualized Family Service Plan meeting or at any other time after the formulation of the IFSP.
- A25. Provider shall ensure that the IFSP, including any amendments thereto, is implemented in a timely manner within thirty (30) days of parent consent to the IFSP, or if the projected date for the initiation of a service is greater than thirty (30) days of parent consent to the IFSP, not later than thirty (30) calendar days after the projected date for initiation of the service.
- A26. Provider shall in consultation with the service Provider and the family/caregiver continuously seek the appropriate services and situations necessary to benefit the development of the child for the duration of the child's EIP eligibility, including providing appropriate referrals for families to access social and mental health services.
- A27. When notified by a Provider or by otherwise becoming aware of a child's absence from more than three (3) scheduled sessions for the delivery of services, Provider shall contact the child's parent/family to ascertain the reason for any absences and immediately notify the EIO regarding the absences, reason for such absences and whether there is a need to modify an existing IFSP.
- A28. Provider shall early in the relationship with the family, have conversations about what they want for their child's future once they transition from the EIP.
- A29. Provider shall identify transition issues and discuss steps to prepare the family for choices/options at different transition points and to prepare the child for participating in the new setting when transition occurs. Provider shall ensure that the family understands the timeframe for transition from the EIP and when transition planning should occur.
- A30. Provider shall, together with the IFSP team, develop a transition plan as part of the IFSP process which includes the outcomes and activities to prepare the child and family for success after early intervention.
- A31. When applicable, Provider shall notify the local Committee on Preschool Special Education (CPSE) of a child's potential transition to CPSE services utilizing Department-standardized forms, procedures, and timelines in accordance with applicable law and regulations.
- A32. Provider understands and agrees that, in accordance with PHL § 2552, a Municipality may request that the parent/family select a new service coordinator or require that the service coordinator select a new Provider of services if the Municipality finds that the service coordinator or Provider, as applicable, has not been performing his or her responsibilities as required or that services have not been provided in accordance with the child's IFSP.
- B. Evaluations & Screenings**
- B1. Provider shall only provide evaluation and screening services as authorized in accordance with their licensure, registration or certification. Agency Providers shall only use qualified personnel who are licensed, certified or registered in the area for which they are providing evaluation services for the provision of core/multidisciplinary evaluations and/or supplemental evaluations

- B2.** Provider shall provide evaluations in accordance with a service authorization issued by the Municipality or service coordinator. If the parent selects an approved Provider to conduct the evaluation prior to the designation of an initial service coordinator, the Provider shall immediately notify the EIO of such selection and shall begin the evaluation no sooner than four (4) business days of the EIO's receipt of written notice from the Provider. The Provider shall obtain parental consent to conduct the evaluation prior to the initiation of the evaluation.
- B3.** Provider shall when conducting a multidisciplinary evaluation include qualified personnel who have sufficient expertise in child development, and include at least one qualified personnel in the area of the child's suspected delay or disability. The primary area of concern must be included as part of the core evaluation. No evaluation may be performed by telephone, in whole or in part.
- B4.** Provider shall when conducting a family assessment include qualified personnel who are trained in the use of professionally accepted methods and procedures to assist the family in identifying their concerns, priorities, and resources related to the development of their child.
- B5.** Provider shall ensure that they and, if applicable, their employees who provide Evaluation & Screening services complete continuing professional and clinical education relevant to early intervention services, and in-service training sponsored by the Department regarding evaluation and eligibility, within six (6) months of becoming an employee of the Agency Provider or within six (6) months of the start date of the Agreement, whichever is later. Provider or employees of an Agency Provider who render evaluations and screenings shall also participate in a minimum of one (1) professional development activity totaling a minimum of 1 1/2 clock hours per year related to the provision of evaluation & assessments to children under the age of 5 years old. Such activity is not limited to Department sponsored training but can include other professional development activities which focus on enhancing skills necessary for evaluators to increase their competency to provide evaluation activities. Provider shall have the training and competency to administer a particular evaluation tool prior to conducting an EI evaluation utilizing such tool. Agency Providers shall ensure that its employees who conduct evaluations have the training and competency to administer a particular evaluation tool prior to conduct an unsupervised evaluation.
- B6.** Provider shall ensure that they and, if applicable, all employees and Individual Providers under contract to provide evaluations for an Agency Provider, have access to the Department's guidance regarding evaluations and eligibility criteria for the early intervention program, prior to conducting an evaluation or screening and that it is implemented appropriately.
- B7.** Provider shall have availability and competency to screen, evaluate, and assess infant and toddler development using appropriate methods and procedures, both formal and informal.
- B8.** Provider shall utilize evaluation and assessment procedures that are responsive to the cultural, ethnic, religious and linguistic background of the family. Tests and other evaluation materials and procedures shall be administered in the dominant language or other mode of communication of the child, unless it is clearly not feasible to do so. If such an evaluation is not possible, Provider should not accept the evaluation assignment or must document the attempts to locate a bilingual evaluator and notify the service coordinator of their inability to provide the evaluation in the dominant language or other mode of communication of the child and receive further direction from the service coordinator before proceeding with the evaluation. The service coordinator may, after discussion with and consent by the parent, request that the evaluation be reassigned to another Provider or Provider Agency.
- B9.** Agency providers shall only use qualified personnel who are licensed, certified or registered in the area for which they are providing evaluation services for the provision of core/multidisciplinary evaluations and/or supplemental evaluations.
- B10.** Provider shall adhere to recognized standards of practice for their respective disciplines when conducting evaluations and utilizing and scoring standardized assessment instruments.
- B11.** Provider shall, when conducting a multidisciplinary evaluation include the core components of a developmental assessment of all domains (physical development, cognitive development,

- communication development, social or emotional development, and adaptive development); a review of pertinent records, parent interview, and, at the option of the family, a family assessment.
- B12. Provider shall use the most recent edition of a standardized test instrument as soon as practicable (e.g., when the standardized instrument has become widely available, including the availability of training, if required by test developers) when conducting evaluations for the purpose of determining a child's initial or ongoing eligibility for the EIP. Standardized test instruments must be administered, scored and interpreted according to the tool's manual.
- B13. Provider understands that no single procedure or instrument may be used as the sole criterion or indicator of eligibility. Provider shall utilize information from a variety of appropriate sources, including but not limited to standardized instruments and procedures, when appropriate or possible; observations of the child; parent interviews; informed clinical opinion; and any other sources of information about the child's developmental status available to the team conducting the child's evaluation.
- B14. Provider shall consider the parent's input regarding the preferred natural environment/setting for the evaluation and should conduct an evaluation in a setting conducive to ensuring accurate results. After the evaluation, the family should be asked whether they believe their child's response was optimal, and the family's response shall be included in the evaluation summary and report.
- B15. Provider shall immediately notify the Parent, the Service Coordinator and EIO/M, prior to initiation of the Evaluation if the Provider reasonably believes that the Provider cannot provide an evaluation within a sufficient time frame so that it can be accomplished within forty-five (45) days necessary to schedule an IFSP (due to workload or scheduling issues).
- B16. Provider shall provide the family a single point of contact and phone number for the evaluation process.
- B17. Provider shall describe to the family each step of the evaluation process, including its purpose, and what the evaluation might look like, including process, rules and procedures that Providers must follow.
- B18. Provider shall discuss how information gathered from the family is used in planning and conducting the evaluation. Provider shall help the family decide how they want to participate in their child's evaluation. The child's parent shall have the opportunity to be present and participate in the performance of evaluation and assessments, unless the parent's circumstances prevent the parent's presence.
- B19. Provider shall provide evaluation results in layman's terms/user friendly language in a manner which is understandable to family and caregivers. Provider shall discuss screening, evaluation, and assessment information with families in understandable language and in the context of the child's strengths. Provider shall ensure that parents are afforded the opportunity to discuss the evaluation results with evaluators, including any concerns they have with the evaluation process.
- B20. Provider shall ensure that when conducting a multidisciplinary evaluation, the Evaluator prepares an evaluation report and written summary and submits the summary, and upon request the report, to the following individuals within sufficient time to ensure completion of the IFSP within forty-five (45) days of a child's referral to the EIP: the child's parent(s); the EIO; and the initial service coordinator. Provider shall ensure that the multidisciplinary report is coordinated by qualified personnel who conducted the child's evaluation.
- B21. Provider shall ensure that Provider creates one integrated multidisciplinary report according to a state-standardized form and that the evaluation report and summary include the names, titles, and qualifications of the persons performing the evaluation and assessment; a description of the assessment process; the child's responses to the procedures and instruments used as part of the evaluation process, the family's belief about whether the responses were optimal; the developmental status of the child in each of the five developmental domains, including the unique strengths and needs in each area; documentation of how clinical opinion was used by the persons performing the evaluation and assessing the child's developmental status and potential eligibility for

the EIP; and measures and/or scores that were used, if any; and an explanation of these measures or scores. The evaluation report shall also include diagnostic information and the International Classification of Disease (ICD) codes related to the child's eligibility, where appropriate.

- B22. Provider shall ensure that when a diagnosis is made during the evaluation, one or more persons who conducted the evaluation are qualified under the NYS Education Law to render the diagnosis. A diagnosis shall not be rendered by an evaluation team member unless they are qualified by their profession to render such diagnosis.
- B23. Provider shall fully document the basis for Provider's eligibility determination and provide such information and documentation that may be requested by the Municipality or the Department within the timeframes specified.
- B24. Provider shall ensure that if the results of the multidisciplinary evaluation indicate the child is not eligible for the EIP, the team's evaluation report will clearly document reasons why the child is not eligible. If a child is not eligible for the EIP but has a developmental delay and the evaluation team believes the child should receive services or supports outside of the EIP, the evaluation team should inform the family of options for services and community resources that will promote the child's development.
- B25. Provider shall submit any additional documentation or explanation requested by the Municipality, service coordinator or Department regarding any evaluation, within five (5) business days of the request.
- B26. Provider understands and agrees that all evaluations must be completed in accordance with applicable law and regulations in order to receive payment for the same.
- B27. Provider shall participate in IFSP meetings in accordance with the requirements of 10 NYCRR § 69-4.11.
- B28. Provider understands and agrees that if the EIO determines that the Provider has not complied with PHL and/or regulations pertaining to an evaluation, the EIO may require that the Provider immediately submit additional documentation to support the eligibility determination and no later than five (5) business days, or if the documentation provided continues to be inconsistent with PHL or regulations, the EIO can require that the parent select another Provider to conduct a multidisciplinary evaluation to determine whether the child meets eligibility for EIP services.
- C. Home/Community-Based and Office/Facility-Based Individual/Collateral Visits
- C1. Provider shall provide home/community-based individual/collateral services in accordance with a service authorization issued by the Municipality or service coordinator.
- C2. Provider shall assist families in learning ways that the family can report more effectively on their observations and understanding (assessment) of their child's skills, behaviors and interests. Provider shall document a family's observations and assessments into the child's session notes. Family observations and assessments should be encouraged but not required.
- C3. Provider shall apply knowledge of current research and evidenced based practices to the development and implementation of strategies, therapy and interventions with the child and family.
- C4. Provider shall work collaboratively with family/caregivers to seek opportunities to adapt learning experiences and therapeutic strategies to reflect individual characteristics of the child and family, and to identify and implement, as appropriate, strategies that enhance and promote the child's participation in natural learning opportunities across both child and family routines and community settings.
- C5. Provider and family/caregivers shall collaboratively identify toys, materials, interactions and locations that are available, of interest to, and motivating for the child and family.

- C6. Provider and family/caregivers shall collaboratively identify and incorporate family identified resources, concerns and priorities which shall result in individualized strategies promoting the outcomes identified by the family, therapeutic outcomes and outcomes identified in an IFSP. Provider shall be aware of and acknowledge new family concerns or interests.
- C7. Provider shall assist the family in learning how to communicate with their child.
- D. **Group Developmental Intervention**
 - D1. Provider shall provide group developmental intervention services in accordance with a service authorization issued by the Municipality or service coordinator.
 - D2. Provider shall only utilize qualified personnel as defined by 10 NYCRR § 69-4.1(ak) when assigning a substitute in situations where the usual group leader is absent.
 - D3. Provider shall provide EI services in a safe, developmentally appropriate environment which has adequate space for the group-size, a physical environment and facilities conducive to learning and reflective of the different stages of development of each child. Providers should incorporate, when possible, Universal Design for Learning principles into the creation of learning environments that support all children, including children with disabilities, when designing a learning environment. Provider agrees that it shall only provide Group developmental services in a location that has been included in Provider's application to the Department.
 - D4. Provider shall support a child's positive behavior through well-organized classrooms, consistent schedules, well-designed learning areas, established routines, and sensitive and appropriate guidance strategies.
 - D5. Provider shall engage in ongoing adaptations of the environment to meet the needs of individual children, including varying teaching strategies which can influence a child's ability to participate.
 - D6. Provider shall have clear curricular goals and learning outcomes and where appropriate individualized learning objectives for children and modification of instructional materials as indicated on the child's IFSP.
 - D7. Provider shall promote supportive interventions within the classroom which minimize the need for a child to be pulled out of the group for an individualized intervention.
 - D8. Provider shall foster a collaborative partnership with all persons involved with the child including the child's family, caregivers and other Providers and will create an individualized learning experience reflective of the individual child's social and cultural experience, child's interests, abilities, and developmental progress. Provider shall inform the child's family on a regular basis about their child's progress and experience in the group developmental setting.
- E. **Parent-Child Groups and Family/Caregiver Support Groups**
 - E1. Provider shall provide parent-child groups and family/caregiver support group services in accordance with a service authorization issued by the Municipality or service coordinator.
 - E2. Provider shall assist parents to understand their child's needs and identify community resources to meet family and child needs and to understand the emotional impact of having a child with disabilities.
 - E3. Provider shall assist the family to learn multiple strategies for communicating with their child.
 - E4. Provider shall assist the family to be confident in their parental skills and in their ability to care for a child with disabilities.
 - E5. Provider shall assist the family to communicate with the team who works with his/her child and family and to develop skills as an advocate for the child.
 - E6. Provider shall assist the family to do things with and for their child that will help enhance their child's development.

- E7. Provider shall assist the family to learn how to communicate with their child.
 - E8. Provider shall assist the family to learn how to understand and manage their child's behavior.
 - E9. Provider shall assist the family to develop skills to cope with stressful situations.
 - E10. Provider shall assist the family to enhance their own ability to modify family routines, such as mealtimes or bedtime, bathing and dressing to accommodate the family needs as well as the developmental and emotional needs of their child and to improve the family's quality of life.
- F. **Providers Using Applied Behavior Analysis (ABA) in the Delivery of ABA Early Intervention Provider Services**
- F1. Provider understands and hereby agrees that "Applied behavior analysis" or "ABA" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.
 - F2. Agency Provider understands and hereby agrees to only utilize qualified personnel as defined in 10 NYCRR §69-4.1 as appropriate for the provision of early childhood ABA services and such employees and individual Provider have been trained, educated, and are familiar with and competent in the delivery of such services.
 - F3. Provider understands and hereby agrees that Provider shall maintain and implement written policies and procedures for the delivery of ABA services which are in conformance with nationally recognized, evidence-based practices for the delivery of such services. Such written policies and procedures shall be: reviewed at least annually by the Provider and updated as necessary to maintain conformance with evidence-based practices for delivery of ABA services; and made available for review for monitoring purposes and upon request by the Department and/or its agent and the Municipality.
 - F4. Provider shall be responsible for developing individual child ABA plans in collaboration with the child's family and Agency Provider, as appropriate, qualified personnel; directing the implementation of individual child ABA plans and the ongoing monitoring, systematic measurement, data collection, and documentation of child progress; modifying individual child ABA services as necessary to promote progress towards goals, generalization of learning; and, where applicable, transitioning of the child from receiving services in home- and facility-based settings to receiving services and participating in other community settings.
 - F5. Provider shall provide assistance, training, and support as needed by parents/caregivers to assist them in follow-through activities specified in the child's ABA plan to enhance child development, behavior, and functioning.
- XIII. **Additional Provider Responsibilities**
- A. Provider understands and agrees that nothing herein shall be deemed to create an "employee" and "employer" relationship between the Department and the Provider, or between the Municipality and the Provider. The relationship of the Provider to the Department or Municipality shall be that of an Independent Contractor for whom no federal or state income tax will be deducted by the Municipality in payment for services provided, and for whom no retirement benefits, workers' compensation protection, survivor benefit insurance, group life insurance, vacation and sick leave, liability protection, and similar benefits available to the State or Municipal employees will accrue.
 - B. Provider shall be responsible for the services for which Provider is approved to deliver and, with respect to Agency Providers, shall only utilize employees and/or Individual Providers and/or another Agency Provider when approved by the Department as an Agency Provider. Agency Provider understands and agrees that when utilizing Individual Providers or another Agency Provider to deliver authorized services, the Agency Provider may only utilize Individuals and Agencies approved by the Department and shall remain responsible for the services for which it is authorized to deliver that were rendered by the Individual Provider and/or the other Agency Provider, including but not limited to all claims for payment related to such services, and in ensuring that the Individual Provider and/or the other Agency Provider complied with all applicable rules and regulations in relation to such services.

- C. Agency Provider shall be responsible for the acts and omissions of Individual Providers and/or other Provider Agencies utilized by the Provider Agency for the provision of services as it is for the acts and omissions of persons directly employed by it.
- D. Provider shall maintain continued compliance with all applicable provisions of the Federal and State Labor Standards.
- E. Provider shall maintain continued compliance with all applicable provisions of the Federal Internal Revenue Code, 20 NYCRR-Taxation and Finance, and all rules promulgated there under, including withholding provisions and timely deposits of employee taxes and unemployment insurance taxes, as applicable.
- F. Provider shall operate and provide services in compliance with the provisions of the Civil Rights Act of 1964, as amended; with 44 CFR Part 7, entitled "Nondiscrimination in Federally Administered Programs"; and with 45 CFR Parts 84 and 85, entitled "Non-Discrimination on the Basis of Handicap in Program Activities Receiving or Benefiting from Federal Financial Assistance".
- G. Provider shall operate, hire, subcontract and provide services without regard to race, creed, color, national origin, sex, age, disability, sexual orientation, genetic predisposition or carrier status or marital status.
- H. Provider shall not have religious worship, instruction, or proselytizing as part of or in connection with the provision of early intervention Provider services, nor shall any of the funds provided under this Agreement be used for such purposes.
- I. Provider shall operate, hire and subcontract in compliance with the provisions of Article 15 of the New York State Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions.
- J. Agency Provider shall, in the event that the Agency Provider files for bankruptcy or reorganization under Chapter seven or Chapter Eleven of the United States Bankruptcy Code, disclose such action to the Department within (7) seven days of filing. This Agreement shall not be assigned by the Provider or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of and attempts to do so are null and void.
- K. Indemnification:
 - i. Provider shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Provider or its employees or Individual Providers under contract, pursuant to this AGREEMENT. The Provider shall indemnify and hold harmless the Department and its officers and employees and Municipalities and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT and under the EIP.
 - ii. The Provider is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the Department or Municipality nor make any claims, demand or application to or for any right based upon any different status.

This provision shall survive the termination of this Agreement. This Agreement shall be deemed terminated immediately upon the Provider's failure to comply.

XIV. Terms and Termination

This Agreement shall be effective for a five (5) year term, unless terminated pursuant to the terms hereof. Provider shall not provide services, nor hold itself out as authorized to provide such services on and after the date upon which this Agreement shall be deemed terminated.

If the Provider wishes to continue participating the EIP after the expiration of this Agreement, Provider shall notify the Department at least ninety (90) days prior to the expiration date and request that the Department enter into a new agreement with the Provider.

Amendments to this agreement may be made by the Department and shall be sent to the Provider via mail or electronically utilizing the Provider's email address. The Provider shall notify the Department within thirty (30)

calendar days of the date the Provider receives the proposed Amendment of whether it accepts the terms contained in the proposed Amendment. The Department reserves the right to terminate this Agreement if a proposed Amendment is not accepted. Oral modifications to this Agreement are prohibited.

1. Termination for Convenience by the Department:

This Agreement may be cancelled at any time by the Department giving to the Provider not less than ninety (90) days written notice that on or after a date therein specified this Agreement shall be deemed terminated and cancelled. Provider shall not render services in the EIP on and after the date specified in such notice and shall not claim for any services rendered after such termination date.

2. Termination for Convenience by Provider:

This Agreement may be cancelled at any time by the Provider, giving to the Department not less than ninety (90) days written notice that on or after a date therein specified this Agreement shall be deemed terminated and cancelled. In the event the Provider terminates the Agreement in accordance with this paragraph, Provider shall, together with any notice of termination, provide each child's Service Coordinator and the corresponding Municipality of residency of the children served with a Plan and Timetable for the orderly transition of services, and a copy of any proposed notification to parents, transporters, employees and Individual Providers utilized by an Agency Provider who deliver services. The plan and timetable for orderly transition of services must be developed in conjunction with affected municipalities and in accordance with municipal procedures. Notification to parents, transporters, employees and Individual Providers utilized by an Agency Provider shall be disseminated by the Provider upon approval by the Municipality and the Department of the proposed Plan and Timetable. The notice of termination and transition plan shall be submitted to the service coordinator(s), affected Municipalities and the Department not less than ninety (90) calendar days prior to the intended termination date of the Agreement. Provider also understands and agrees that the Provider will supply, to the best of the Provider's ability, any outstanding child/family information necessary for the Department's Part C Annual Performance Report, prior to terminating this agreement.

3. Termination for Cause:

The Department or the Provider may terminate this agreement, prior to the end of term by giving thirty (30) calendar days written notice to the other party of its intention and reason for termination. The non-terminating party may be given an opportunity to cure the reason for termination within the 30-day period. If the non-terminating party does not cure the reason for termination to the satisfaction of the terminating party, this Agreement shall terminate at the end of such 30-day period. Cause for termination may include but shall not be limited to: (a) failure to comply with the terms and conditions of this Agreement; (b) § 69-4.12 and (c) any violation of applicable laws or regulations, including an unacceptable practice under the Medical Assistance Program as enumerated in Title 18 NYCRR §515.2. Provider shall immediately provide each child's Individual Service Coordinator and the corresponding Municipality of residency of the children served, with a Plan and Timetable for the orderly transition of Services, and a copy of any proposed notification to Parents, transporters, employees and independent contractors utilized by a provider agency who deliver EI provider services. The plan and timeline for orderly transition of services must be developed in conjunction with municipalities and in accordance with municipal procedures. Notification to parents, transporters, employees and independent contractors utilized by a Provider Agency shall be disseminated by the Provider Agency upon approval by the affected Municipalities and the Department of the proposed Plan and Timetable. Provider also understands and agrees that the Provider will supply, to the best of the Provider's ability, any outstanding child/family information necessary for the Department's Part C Annual Performance Report for services furnished, prior to terminating this agreement.

4. Immediate Termination by the Department:

The Department shall have the right to terminate this Agreement, in whole or with respect to any identifiable part of the Program, effective immediately in cases of imminent danger to the health and safety of Eligible Children, Parents and/or staff, or upon the filing of a petition in bankruptcy or insolvency, by or against the Provider. Such termination shall be immediate and complete, without termination costs or further obligations by the Department or Municipality to the Provider.

6. Compliance Involving Health & Safety Issues:

If the Department finds that the health or safety of a child, the child's parents or staff of the Agency Provider or Municipality is in imminent risk of danger or there exists any condition or practice or a continuing pattern of conditions or practices which poses imminent danger to the health or safety of such child, parents or staff of the Agency Provider or Municipality, in addition to any other remedies available to it, the Department may:

- (a) terminate this Agreement,
- (b) terminate one or more of the service models the Provider is authorized to deliver in the EIP,

- (c) terminate one or more service delivery methods/settings;
- (d) direct that the Municipality prohibit or limit the assignment of children to the Provider;
- (e) direct that the Municipality remove or cause to be removed some or all of the children the Provider currently serves;
- (f) direct that the Municipality suspend or limit or cause to be suspended or limited payment for services to the Provider.

6. Compliance proceedings involving approval of an individual or agency:
In accordance with 10 NYCRR § 69-4.24, the Department may, in addition to any other remedies available to it, revoke, suspend, limit this agreement and approval.

7. Notices:

All notices shall be sent by mail or email to the Provider listed within the electronic data system (currently NYEIS or any successor data system as required by the Department) as the Program Director or in the case or to an individual Provider. The Provider is responsible for notifying the Department of any change in contact information including mailing and email addresses. All notices of termination will contain the specific date on which the Provider must cease providing Early Intervention Services.

All notices from the Provider must be sent to the Department at the following address:

New York State Department of Health
Bureau of Early Intervention
Provider Approval & Due Process Unit
ESP, Corning Tower, Room 267
Albany, New York 12237-0660

8. Severability:

It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

Appendix 1 - Payee Provider Agreement/Service Authorizations and Payment

THIS Appendix IS NOT CONSIDERED TO BE FULLY EXECUTED WITHOUT AN APPROVAL DATE FROM THE New York State Department of Health. The Provider cannot receive service authorizations from a Municipality and claim for early intervention services rendered until this Appendix is fully executed by the Department. In the event this Appendix is executed subsequent to the execution of the Agreement, the effective dates for this Appendix shall be as set forth herein.

- I. For a Provider to receive service authorizations from a Municipality for EIP services and direct payment for the services rendered from the Municipality, the Provider shall utilize the Department's electronic data system and, when indicated by the Department, establish a relationship with the Department's fiscal agent for claiming payment for service coordination, evaluations and EI Provider services. Provider shall comply with all requirements for claiming as required in applicable law and regulation, and as necessary for the fiscal agent to perform its duties, including but not limited to, the terms and conditions set forth in this Appendix.
 - a) Provider shall be responsible for monitoring the quality of the Provider's services, compliance with this Agreement, Individuals with Disabilities Education Act (IDEA), PHL, early intervention regulations and fiscal responsibilities.
 - b) Provider shall report incidents of noncompliance, fraud or abuse to appropriate payors and ensure that the appropriate State and municipal agencies are notified, as required.
 - c) Provider shall not claim or collect payment directly from the family for EI services nor require the family to pay additional costs.
 - d) Provider shall promptly notify the Department and/or its state fiscal agent and the Municipality of any duplicate or erroneous payment received from the Municipality or from any third-party payor and shall cooperate with the Department and/or its state fiscal agent and the Municipality to rectify the situation.
 - e) Provider understands that there is a specific Medicaid Institutional enrollment for early intervention providers. Provider shall enroll in the Medical Assistance Program as a billing Provider for EIP services.
 - f) Provider shall certify, recertify and revalidate with Medicaid as necessary to maintain early intervention approval and maintain the Appendix 1. Agency Providers must maintain an active Medicaid status as an early intervention provider to be able to provide early intervention services.
 - g) Provider shall, for children who have coverage under an insurance policy, plan or health benefit package, including the Medicaid Assistance Program or other governmental payor, seek payment from such insurer or health plan prior to seeking payment from the Municipality, in accordance with PHL § 2559. Provider shall utilize the Department's data system and/or fiscal agent as directed by the Department in seeking payment from such insurer or health plan.
 - h) Provider shall further take the appropriate steps to secure insurer or health plan payment for services, including responding to claim denials by correcting any errors identified in claims, providing requested documentation such as that needed to support medical necessity, and the submission of Subrogation notice to each child's insurance company.
 - i) The Department and/or its fiscal agent(s) is responsible for management of all submitted Provider claims. Provider shall use uniform and consistent procedures as directed by the Department for submission of claims. Provider shall use the Department's electronic data system (or any successor data system as required by the Department) for submission of claims associated with EI children.
 - j) The Department and/or its fiscal agent(s) will assist Provider in claims submission and adjudication to third party payors, and shall manage payments owed to Provider for services not reimbursed by third party payors.
 - k) Provider shall maintain progress and session notes detailing the nature and extent of services provided and shall make them available to the Department and/or Municipality upon request for programmatic monitoring and fiscal audit purposes.

- l) Provider shall have policies and procedures in place to verify that any service authorizations issued by the Municipality are in conformity with the IFSP and to notify the service coordinator and Municipality immediately regarding any discrepancy. Provider shall further develop and implement policies and procedures to verify that services are delivered to a child in conformity with the child's IFSP.
- m) Provider shall keep an accurate record of attendance for each child for whom services are being provided such record shall be maintained in the child's record or file and may be requested at any time by the Department or Municipality.
- n) Provider shall make available and accessible to the Department and Municipality, all records and information necessary to assure the appropriateness of payments made to the Provider and to assure the Provider's compliance with all applicable statutes and regulations.
- o) Provider understands and agrees that payment will not be made for services provided by individuals who are not qualified personnel as defined in 10 NYCRR §69-4.1(ak), or for services rendered by qualified personnel who are not acting within the scope of practice authorized by his or her license, registration or certification for the provision of services authorized in a child's IFSP.
- p) Provider shall fully familiarize itself with Department's policy and guidance regarding claiming and documentation for services rendered.
- q) Agency Provider seeking to cease EIP services understands and agrees that if such Agency Provider provides services to more than fifty (50) children per year, the Agency Provider must contact the Department and/or the municipality(s) to ensure that prior to agency closure, the Agency Provider shall submit child specific information necessary for the completion of the Department's Annual Performance Report (APR).
- r) Provider shall submit all claims for early intervention services in a timely manner as required by the Department and understands that the Provider risks non-payment for late claims.
- s) Provider shall submit to the Department no less than annually in a manner and format and by the date requested by the Department, a description of the Provider's services at each site at which EI Provider services are offered. Such program description may include program models utilized at various sites, languages offered, services offered, special populations served, and other such description information. The Department shall make such program descriptions available to Service Coordinators for the purpose of assisting parents in understanding program types and options, and in selecting an evaluation site.
- t) Pursuant to PHL § 2557, when directed by the Department, Provider shall utilize the Department's fiscal agent for early intervention claims as determined by the Department. Provider shall provide such information and documentation as required by the Department and necessary for the fiscal agency to carry out its duties.
- u) Provider shall sign up for electronic funds transfer, as directed by the Department, for payment by the fiscal agent for claims not covered by third party payers.
- v) Provider shall sign up with third-party clearinghouses, at the direction of the Department, to enable the secure exchange of claim adjudication information among the fiscal agent, Provider and applicable third-party payers.

II. Additional Requirements: Provider shall not commence performing Services under this Agreement plus Appendix 1 unless and until all required insurance is in effect, and shall ensure continuous insurance coverage in the manner, form, and limits required by the Agreement.

- (1) Provider shall procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types specified herein. Unless otherwise specified by the Department and agreed to by the Provider, in writing, such insurance will be as follows:
- i. **Commercial General Liability Insurance** including contractual coverage, in an amount no less than \$1,000,000/per occurrence must be carried by the Agency Provider.
 - ii. **Commercial General Liability insurance** for individual Providers who carry **Professional Liability Insurance** is not required unless the individual Provider (1) employs others, besides themselves, and these employees have contact with children or parents, or (2) owns, rents or otherwise has control of the space where children and/or parents are provided with early intervention services by the provider.
 - iii. **Automobile Liability insurance** is required only if children who are being treated under this agreement are being transported in the subject vehicle in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage occurrence. If the Provider does not transport children, the Provider is not required to carry Automobile Insurance other than that is required by New York State Law and regulations.
 - iv. **Professional Liability insurance** in an amount not less than \$1,000,000 per incident/occurrence. It is not necessary to have municipalities or the State listed as additionally insured on an individual's professional liability policy.
 - v. In the case of Agency Providers, **Worker's Compensation and Employer's Liability insurance** in compliance with all applicable New York State laws and Regulations and **Disability Benefits insurance**, if required by law. Provider shall maintain and make available upon request to the Department, the documentation required by the New York State Workers' Compensation Board of coverage or exemption from coverage pursuant to Sections 57 and 220 of the NYS Workers' Compensation Law. In accordance with Article 5-A Section 108 of NYS General Municipal Law, this Agreement shall be void and of no effect unless the Provider shall provide, upon request and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- (2) To have all policies providing such coverage issued by insurance companies with an A.M. Best rating of A- or better.
- (3) To furnish to the State certificates of insurance or, on request, original policies, evidencing compliance with the aforesaid insurance requirements.
- (4) To have, in the case of commercial liability insurance, said certificates or other evidence of insurance name the State of New York and Municipality as an additional insured.
- (5) To have all such certificates or other evidence of insurance provide for the State of New York and Municipality to be a certificate holder and to be notified in writing thirty (30) days prior to any cancellation, non-renewal or material change.
- (6) To have such certificates, policies or other evidence of insurance and notices mailed to the Department and Municipality at the address contained in this Agreement or at any such other address of which the Department and Municipality shall have given the Provider notice in writing.

III. Additional Requirements: Upon request of the Department, Individual Providers, Agency program director and Principals of an Agency Provider who are/will be providing direct services to EIP children shall provide the Department with all necessary information and documentation to allow for a database check from the Justice Center and the SCR, and shall upon request further submit any required fee under Section 424-a of New York State Social Services Law to perform such SCR clearance.

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New York State Department of Health
 Bureau of Early Intervention
 Early Intervention Provider Agreement

Signatory must be legally authorized to enter into an Agreement on behalf of the Provider.
 Please answer Yes or No to the following questions.

I have read and understand my obligations as stated in this 2023 Agreement: Yes

I request the additional terms outlined in Appendix 1 (check one): No Yes

In Witness Whereof, the parties hereto have executed* this Agreement as of the latest date written below.

Provider

<u>Agency Provider Name</u> or <u>Individual Provider Name</u> (if you have or are requesting a business name associated with your Individual Approval, record name as <LAST NAME>, <FIRST NAME> FOR <BUSINESS NAME>.)
NYS NYEIS Provider ID (if one has previously been assigned, otherwise leave blank)

Agency Provider's Authorizing Officer (This pertains to Agency Providers only.)

First Name	M.I.	Last Name
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Address

Street Address		Apartment/Floor	
City	State	Zip Code (9 digit)	County (if in NY)
E-mail Address		NPI Number	

Service Catchment Area(s): Your agreement is statewide, however circle only counties/municipalities for which you are currently available to provide services. If future circumstances change, you may notify us of additional counties.

- | | | | |
|-------------|------------|--------------|---------------------------|
| Albany | Fulton | Orange | Tioga |
| Allegany | Genesee | Orleans | Tompkins |
| Broome | Greene | Oswego | Ulster |
| Cattaraugus | Hamilton | Otsego | Warren |
| Cayuga | Herkimer | Putnam | Washington |
| Chautauqua | Jefferson | Rensselaer | Wayne |
| Chemung | Lewis | Rockland | Westchester |
| Chenango | Livingston | St. Lawrence | Wyoming |
| Clinton | Madison | Saratoga | Yates |
| Columbia | Monroe | Schenectady | |
| Cortland | Montgomery | Schoharie | <u>New York City Area</u> |
| Delaware | Nassau | Schuyler | Bronx |
| Dutchess | Niagara | Seneca | Kings |
| Erie | Oneida | Stauben | New York |
| Essex | Onondaga | Suffolk | Queens |
| Franklin | Ontario | Sullivan | Richmond |

Applicant Authorized Signature (Original Signature)	
Title/Profession	Telephone

For internal Department use only- Approved By New York State Department of Health

First Name	Last Name
Authorized Signature	Approval Date
Dates of Agreement Effective:	Expiration: A1 Yes No

*THIS Appendix IS NOT CONSIDERED TO BE FULLY EXECUTED WITHOUT AN APPROVAL DATE FROM THE New York State Department of Health. The Provider cannot receive service authorizations from a Municipality and claim for early intervention services rendered until this Appendix is fully executed by the Department. In the event this Appendix is executed subsequent to the execution of the Agreement, the effective dates for this Appendix shall be as set forth herein.



Schenectady County Legislature

Committee on Public Facilities, Transportation and Infrastructure

Hon. Richard Patierne, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: December 30, 2022
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Committee on Public Facilities
Honorable Patierne, Chair
Tuesday, January 3, 2023 at 7:00 p.m.
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsors
PFTI	1 A RESOLUTION CONFIRMING THE APPOINTMENT OF A PERSON TO THE POSITION OF DIRECTOR OF BUREAU OF ENGINEERING	Legislator Patierne	
PFTI	2 A RESOLUTION REGARDING A SEQRA DETERMINATION FOR THE CONSTRUCTION OF A STORAGE BUILDING AND A SIGN SHOP AT THE SCHENECTADY COUNTY PUBLIC WORKS FACILITY IN THE TOWN OF ROTTERDAM	Legislator Patierne	
PFTI	3 A RESOLUTION REGARDING THE ACCEPTANCE OF CERTAIN REAL PROPERTY IN THE TOWN OF DUANESBURG PREVIOUSLY OWNED BY WILLIAM M. LARNED & SONS, INC.	Legislator Patierne	

Item	Title	Sponsor	Co-Sponsors
PFTI	4 A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO ENTER INTO A MULTI-YEAR AGREEMENT WITH THE NYS DEPARTMENT OF TRANSPORTATION REGARDING HIGHWAY WORK PERMITS	Legislator Patierne	
PFTI	5 A RESOLUTION TO ACCEPT MONIES FROM THE WATER QUALITY IMPROVEMENT PROGRAM OF THE NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE PURCHASE OF EQUIPMENT	Legislator Patierne	

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference:
Initiative: PFTI 1

Title of Proposed Resolution:

A RESOLUTION CONFIRMING THE APPOINTMENT OF A PERSON TO THE POSITION OF DIRECTOR OF BUREAU OF ENGINEERING

Purpose and General Idea:

Provides Authorization for the Appointment of Peter B. Knutson to the Position of Director of the Bureau of Engineering

Summary of Specific Provisions:

Authorizes the appointment of Peter B. Knutson to the position of Director of Bureau Engineering, effective January 11, 2023.

Effects Upon Present Law:

None.

Justification:

Mr. Knutson graduated from SUNY Institute of Technology and has over 14 years in the field of engineering. he worked for 10 years in the City of Schenectady's Engineering Department overseeing the design and construction of sewer, water, and road improvement projects. Mr. Knutson started working for the County in 2019 as the Senior Civil Engineer providing oversight for airport construction projects, and federal and state-funded highway improvement projects as well as providing engineering support for the Environmental Health Department. Mr. Knutson's significant experience has proven to be an asset to the Department.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY




RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355

FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature

Date: December 30, 2022

Re: Appointment of Peter B. Knutson to the Position of Director of Bureau of Engineering

I hereby appoint, Peter B. Knutson, subject to confirmation by the County Legislature, to the position of Director of Bureau of Engineering, effective January 11, 2023.

Mr. Knutson has over 14 years in the fields of engineering. Specifically, he worked for 10 years as the City of Schenectady's Assistant to the City Engineer. In that role, he oversaw the construction of a \$27 million building project that included a DEC petroleum contaminated spill site, worked with the City's Law Department to rewrite municipal codes, worked to implement an updated Bike Master Plan, and worked to better implement planned maintenance throughout City facilities. He then began working for the County as its Senior Civil Engineer in 2019, a role that he still holds. As the County's Senior Civil Engineer, he manages leases and military agreements at the County Airport, applies for and manages multiple state and federal grants, and oversaw the construction of a \$9.6 million rehabilitation project at the County Airport.

Mr. Knutson received his Bachelor's in Civil Engineering Technology from SUNY Institute of Technology and holds a Professional Engineering License.

I recommend your confirmation.

**Schenectady County
Inter-Department Memorandum**

DATE: December 27, 2022
TO: Rory Fluman, County Manager
FROM: Paul Sheldon, Director of Public Works *PS*
COPIES: File
SUBJECT: Appointment of Peter B. Knutson, P.E. to the Title of Director of Bureau of Engineering

I am requesting the appointment of Peter B. Knutson, P.E., to the position of Director of Bureau of Engineering.

Mr. Knutson graduated from SUNY Institute of Technology and worked 10 years for the City of Schenectady Engineering Department overseeing the design and construction of sewer, water and road improvement projects. Mr. Knutson started working for the County in 2019 as the Senior Civil Engineer providing oversight for airport construction projects, federal and state funded highway improvement projects as well as providing engineering support for the Environmental Health Department. Mr. Knutson has significant experience with highway construction and airport projects and has proven to be an asset to the Department.

I recommend your approval.



OBJECTIVE To gain further experience in the Civil Engineering field.

**EDUCATION/
CERTIFICATION**

Engineer In Training Certification Fall 2009

Professional Engineering License (P.E) #098770 January 2018

SUNY Institute of Technology Utica, NY
Bachelor of Science, Civil Engineering Technology Spring 2009

United States Air National Guard Scotia, NY
Aircraft Mechanic May 2004 – May 2010
Airmen of the Quarter Nominee (2008)

**TECHNICAL
SKILLS** Trimble Business Center, Trimble GIS system, Transits, Theodolites, Total Station, AutoCAD 2020
Civil 3D, Micro station-Inroads, CME Frame, CME Truss, HCS +, Excel, Word, Power Point, ArcMap,
CAMP-RS

EXPERIENCE

Engineering Bureau, Schenectady County, New York Jan 2019 – Present
Senior Civil Engineer

- Manage leases and military agreements at the Schenectady County Airport.
- Apply and manage Federal Aviation Administration (FAA) construction grants.
- Apply and manage New York State Department of Aviation construction grants.
- Create and review construction and bidding documents.
- Design municipal construction projects to be bid by private firms or county workers.
- Manage and oversee budgetary codes and cost accounting.
- Apply and manage New York State Department of Transportation highway grants.
- Work with multiple engineering consultants overseeing and inspecting construction projects.
- Oversaw the construction of \$9.6 million rehabilitation of Runway 4/22 and Taxiway C at Schenectady Airport.
- Working with Barton and Loguidice (B&L) to design the traffic improvements for Rosendale and Old River Roads using Congestion Mitigation Air Quality (CMAQ) federal grant process.
- Worked with B&L, as primary contact for residents to allow the county to perform a phase 1A and 1B archeological studies.

Engineering Department, City of Schenectady, New York Feb 2009 – Dec 2019
Assistant to the City Engineer

- Design and write specifications for sewer line, water line, and road construction projects
- Oversaw construction of a 27 Million dollar building project that also included a DEC petroleum contaminated spill site.

- Designed new layouts for the Central Park Pool and A-Diamond baseball field and surrounding watershed.
- Designed better use of MUNIS system to track utility permits by address.
- Estimated material quantities and cost projections for multiple projects.
- Constructed surveys using TIN to construct DTM surfaces and pipe networks with profiles.
- Worked with Law Department to rewrite municipal codes in the Engineering and General Services Departments.
- Archived and digitized more than 70 years of engineering projects for increased efficiency in searching, storage and retention.
- Trained in and responsible for the Siemens HVAC system to control the heating and air conditioning systems of the Bureau of Services, Police Station and City Hall.
- Design layouts for moving of offices between Code enforcement, Development, OGS, Traffic, and Receipts
- Inspected, and surveyed as-builts for waterlines, and sewer lines.
- Using Cornell Local Roads program CAMP-RS, and an intern we surveyed and assessed all roadway conditions throughout the entire city.
- Extrapolated the CAMP-RS program to give a more accurate life cycle cost break down to better assess paving program.
- Work with Development to implement an updated Bike Master Plan as well as, two demonstration projects to increase public support of the plan.
- Design gates to close off Watt St tunnel to reduce crime and increase security of two neighborhoods.
- Survey and develop plans for the demo of existing Golf Course Maintenance Buildings and construction of new ones, as well as, new parking lot layouts, golf staging area, distance markers, cart path layout and other projects.
- Review site plans to verify that meet City Standards.
- Worked to better implement planned maintenance throughout City facilities to reduce emergency calls.

Ingalls and Associates, Schenectady, New York

Aug 2016 - Oct 2016

Project Manager

- Engineered and designed site plans.
- Analyzed Storm water runoff to meet the standards in the NYS Storm water Design Manual GP-0-15.
- Analyzed roadway geometry for vertical and horizontal sight distances.
- Design of a grinder pump, gravity and inverted siphon sanitary sewer systems.
- Attended public hearings, and planning meetings to defend project developments.

Dodson and Associates, Schenectady, New York

May 2008 - Aug 2008

Junior Civil Engineer

- Engineered and designed water and wastewater systems.
- Surveyed existing pipe networks and proposed sites for construction.

United States Air National Guard, Scotia, New York

May 2004 – May 2010

Aircraft Maintainer

- Repaired and replaced parts according to technical data.
- Kept records up to date in aircraft forms and computer-generated forms.
- Scheduled shops according to importance of mission.
- Trained other members in maintenance practices.

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference:
Initiative: PFTI 2

Title of Proposed Resolution:

A RESOLUTION REGARDING A SEQRA DETERMINATION FOR THE CONSTRUCTION OF A STORAGE BUILDING AND A SIGN SHOP AT THE SCHENECTADY COUNTY PUBLIC WORKS FACILITY IN THE TOWN OF ROTTERDAM

Purpose and General Idea:

Authorization to Adopt a SEQR Negative Declaration for the Department of Public Works Storage Garage and Sign Shop Buildings Project

Summary of Specific Provisions:

Provides authorization for the adoption of a SEQR negative declaration for the Department of Public Works Storage Garage and Sign Shop Buildings Project

Effects Upon Present Law:

None.

Justification:

Upon completion of this review, it was determined that the project will not result in any large and important adverse environmental impacts and therefore will not have a significant adverse impact on the environment.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY




RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Public Works

Date: December 30, 2022

RE: Authorization to Adopt a SEQR Negative Declaration for the Department of Public Works Storage Garage and Sign Shop Buildings Project

Attached is a memorandum from Paul Sheldon, Director of Public Works, requesting the County Legislature adopt a SEQR Negative Declaration for the Department of Public Works Storage Garage and Sign Shop Building project. Following SEQR environmental procedures, Mr. Sheldon has determined that this project, which involves the construction of two buildings within an area of less than one acre, will have no significance adverse impact on the environment.

I recommend your approval.

Schenectady County
Inter-Department Memorandum

DATE: December 15, 2022
TO: Rory Fluman, County Manager
FROM: Paul Sheldon, Director of Public Works PJS
COPIES: File
SUBJECT: New Public Works Storage Building and Sign Shop
SEQR Determination

A 12,150 square foot pre-engineered metal storage building, and a 3,850 square foot concrete masonry building are planned to be constructed at the County Public Works facility in the Town of Rotterdam. The pre-engineered metal storage building will provide heated storage space for snowplow equipment during the winter months as well as storage for heavy equipment and tire racks. The concrete masonry building will house the sign shop, replacing their existing facility which is over 75 years old and in very poor condition.

The County has completed the environmental review following the SEQRA (State Environmental Quality Review Act) environmental procedures. Municipal water and sewer connections will be provided at the sign shop. The total area of disturbance is less than one acre, so a storm water pollution prevention plan (SWPPP) is not required. Existing on-site storm water facilities will be utilized. The site will utilize the existing curb cuts on Kellar Avenue and Moyer Avenue. The project will have no adverse impact upon cultural resources in or eligible for inclusion in the State and National Historic Register of Historic Places.

We have completed our review of the project following the SEQRA environmental procedures and have determined the project will not result in any large and important adverse environmental impacts and therefore will not have a significant adverse impact on the environment.

Please advise if you need additional information.

Schenectady County Department of Public Works (DPW) Storage Garage and Sign Shop Buildings

This negative declaration has been prepared in accordance with Article 8 of the NYS Environmental Conservation Law.

Lead Agency: County of Schenectady
620 State Street
Schenectady, NY 12305

For additional information: Paul Sheldon, P.E.
Director, of Public Works
Schenectady County Department of Engineering and Public Works
100 Kellar Avenue
Schenectady, NY 12306
Phone: (518) 356-5340, ext. 3234
Paul.sheldon@schenectadycounty.com

Description of action:

Construction of a 12,150 SF pre-engineered metal building for equipment storage and a 3,850 SF concrete masonry building that will house two truck bays and a sign shop. The buildings and associated site improvements will be constructed on the site of the Schenectady County DPW facility at Kellar Avenue in Rotterdam. Municipal water and sewer connections will be provided. Total area of disturbance will be less than 1 acre and a Storm Water Pollution Prevention Plan is not required. Existing on-site storm water facilities will be utilized. The site will utilize the existing curb cuts on Kellar Avenue (County Route 85) and Moyer Avenue.

SEQR Classification: Unlisted Action

Determination of Significance:

The project will not result in any large and important adverse environmental impacts and, therefore, is one which will not have a significant adverse impact on the environment.

Reasoning supporting determination:

- After review of the Short Environmental Assessment Form and the criteria contained in section 617.7 (c) of the SEQR regulations, the County Legislature has determined that the Project will not have a significant adverse impact on the environment.
- The project is consistent with existing community and neighborhood character. All construction will be confined to the existing DPW site.
- The project will not result in the removal of a large amount of vegetation or fauna and the project limits are outside of the vicinity of animals listed as endangered or threatened, or significant natural communities or critical habitats.
- The project will have no adverse impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

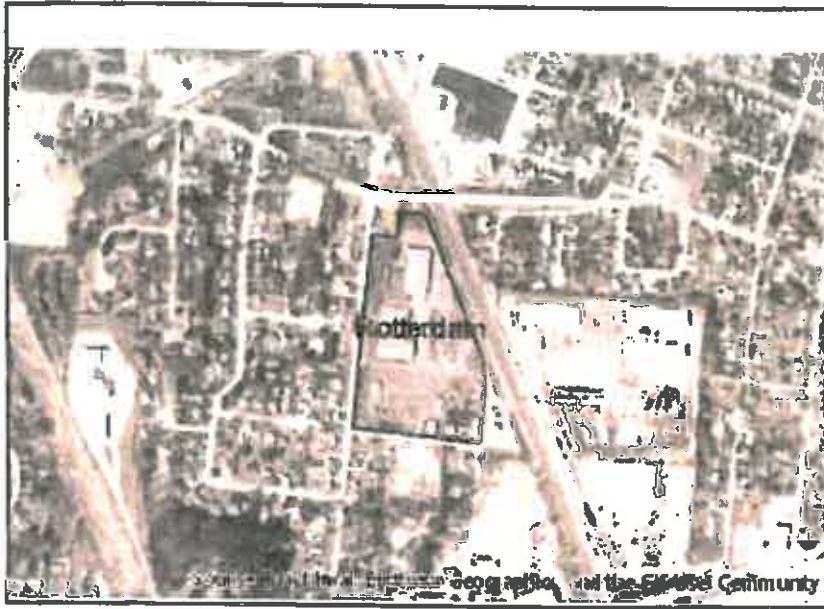
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Schenectady County DPW Garage and Sign Shop			
Project Location (describe, and attach a location map): 100 Keller Ave, Schenectady, NY 12306			
Brief Description of Proposed Action: A new 12,150 SF garage building and 3,850 SF sign shop building are proposed to be built on the southern end of the property near Moyer Ave. These buildings will replace the existing ones in that area that are outdated and deteriorating. Asphalt pavement will be installed for vehicle access to each new building. New utility connections for water, sewer, gas and electric will be made to the existing infrastructure adjacent to the site.			
Name of Applicant or Sponsor: Schenectady County DPW		Telephone: E-Mail: yl-mel.han@schenectadycounty.com	
Address: 100 Keller Ave			
City/PO: Schenectady		State: NY	Zip Code: 12306
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input checked="" type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input checked="" type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		_____ 11.96 acres	
b. Total acreage to be physically disturbed?		_____ 0.99 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ 12.96 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			


5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?			
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?			
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?			
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?			
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____			

<p>14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:</p> <p><input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional</p> <p><input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban</p>		
<p>15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?</p>	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>16. Is the project site located in the 100-year flood plan?</p>	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,</p> <p>a. Will storm water discharges flow to adjacent properties?</p> <p>b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:</p> <p>Stormwater will discharge to the existing conveyance system on Keller Ave.</p>	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:</p>	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:</p>	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:</p>	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor/name: _____ Date: _____</p> <p>Signature: _____ Title: _____</p>		

PRINT FORM



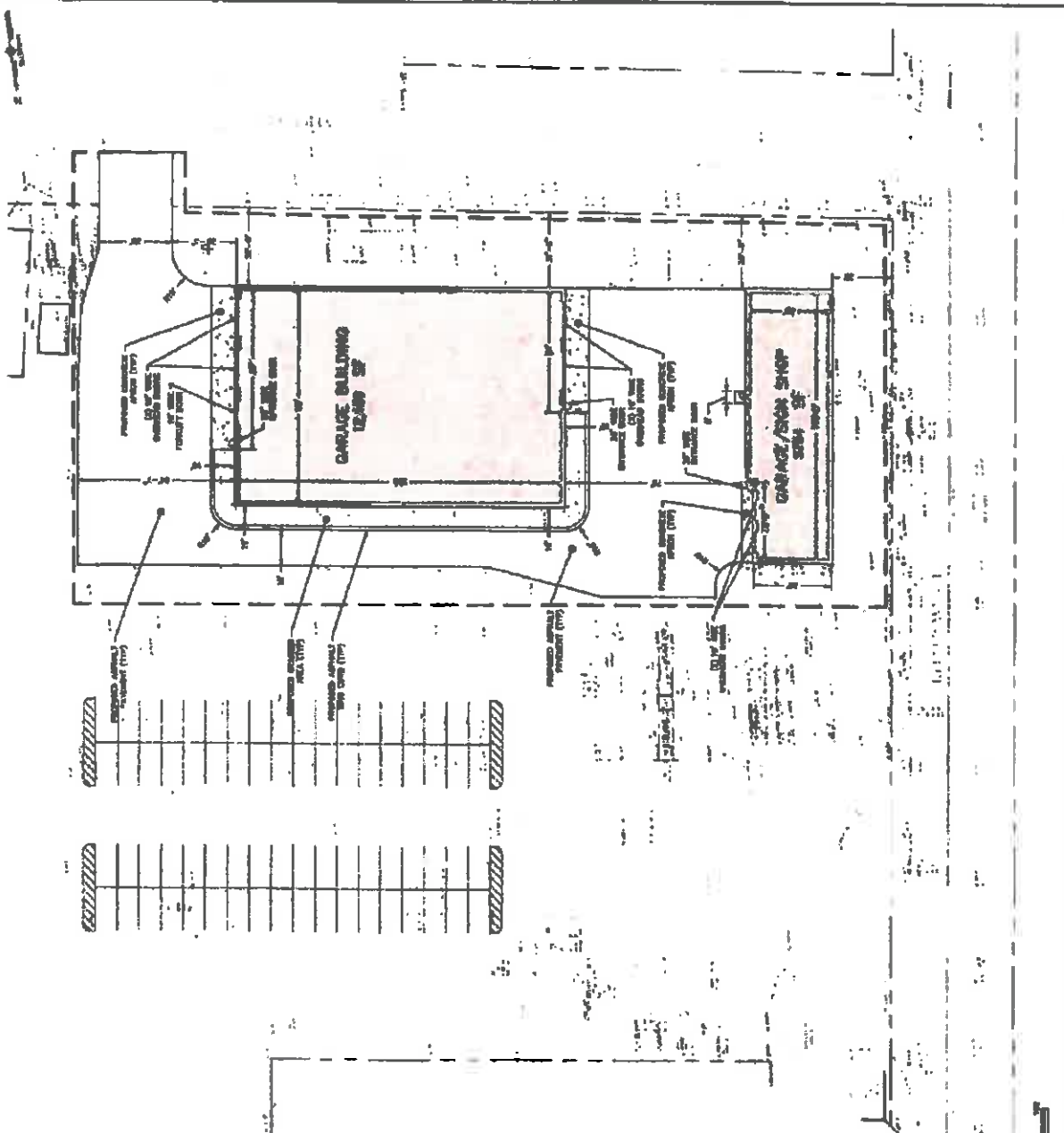
Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



EMENTP, NRCan, Esri Japan, METI Esri China Hong Kong, Esri (c) OpenStreetMap contributors, and the GIS User Community

- Part 1 / Question 7 [Critical Environmental Area] No
- Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites] No
- Part 1 / Question 12b [Archeological Sites] Yes
- Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies] No
- Part 1 / Question 15 [Threatened or Endangered Animal] No
- Part 1 / Question 18 [100 Year Flood Plain] No
- Part 1 / Question 20 [Remediation Site] No

		SCHENECTADY COUNTY 100 KELLAR AVE SCHENECTADY, NY 12308	PROPOSED	15/1/2020	DATE	SHEET	100 KELLAR AVE SCHENECTADY, NY 12308	SITE LAYOUT PLAN	C-102



- SITE LAYOUT NOTES:**
- THE CONTRACTOR SHALL PROVIDE EXISTING PROPERTY LINE DEMONSTRATION, AND SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DEMONSTRATION. THE DEMONSTRATION SHALL BE SURVEYED BY A LICENSED SURVEYOR AND SHALL BE RECORDED BY A LICENSED SURVEYOR.
 - PROPERTY BOUNDARIES SHALL BE INDICATED BY A DASHED LINE ON THE SITE PLAN. THE BOUNDARIES SHALL BE INDICATED BY A DASHED LINE ON THE SITE PLAN. THE BOUNDARIES SHALL BE INDICATED BY A DASHED LINE ON THE SITE PLAN.
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DEMONSTRATION. THE DEMONSTRATION SHALL BE SURVEYED BY A LICENSED SURVEYOR AND SHALL BE RECORDED BY A LICENSED SURVEYOR.
 - CONTRACTOR IS RESPONSIBLE FOR PROVIDING A SAFETY MAINTENANCE PLAN. THE SAFETY MAINTENANCE PLAN SHALL BE SUBMITTED TO THE COUNTY ENGINEER FOR REVIEW AND APPROVAL. THE SAFETY MAINTENANCE PLAN SHALL BE SUBMITTED TO THE COUNTY ENGINEER FOR REVIEW AND APPROVAL.
 - CONTRACTOR IS RESPONSIBLE FOR PROVIDING A SAFETY MAINTENANCE PLAN. THE SAFETY MAINTENANCE PLAN SHALL BE SUBMITTED TO THE COUNTY ENGINEER FOR REVIEW AND APPROVAL. THE SAFETY MAINTENANCE PLAN SHALL BE SUBMITTED TO THE COUNTY ENGINEER FOR REVIEW AND APPROVAL.
 - THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DEMONSTRATION. THE DEMONSTRATION SHALL BE SURVEYED BY A LICENSED SURVEYOR AND SHALL BE RECORDED BY A LICENSED SURVEYOR.
- LEGEND:**
- PROPOSED BUILDING
 - PROPOSED EXISTING LOT
 - PROPOSED AREA OF CONTINGENCY
 - PROPOSED SIGN SHOP
 - PROPOSED SIGN SHOP
 - PROPOSED SIGN SHOP
 - PROPOSED SIGN SHOP
 - PROPOSED SIGN SHOP
 - PROPOSED SIGN SHOP
 - PROPOSED SIGN SHOP
 - PROPOSED SIGN SHOP
- SCALE: 1"=20'**
- Call811**
In New York State

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference:
Initiative: PFTI 3

Title of Proposed Resolution:

A RESOLUTION REGARDING THE ACCEPTANCE OF CERTAIN REAL PROPERTY IN THE TOWN OF DUANESBURG PREVIOUSLY OWNED BY WILLIAM M. LARNED & SONS, INC.

Purpose and General Idea:

Authorization to Accept Ownership of Land Owned by William M. Larned & Sons Inc.

Summary of Specific Provisions:

Provides authorization to accept ownership of land owned by William M. Larned & Sons Inc., the property is located along County Highway #123 in the Town of Duanesburg.

Effects Upon Present Law:

None.

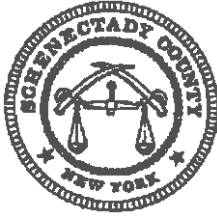
Justification:

This land is being donated to the County for the proposed project that will improve the sight lines for a non-standard curve near the Norfolk Southern Railroad bridge. The current curve design does not allow adequate sight distance for larger vehicles, including the County's snowplows to negotiate the curve safely.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY




RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Public Works

Date: December 30, 2022

RE: Authorization to Accept Ownership of Land Owned by William M. Larned & Sons Inc.

Attached is a memorandum from Paul Sheldon, Director of Public Works, requesting authorization to accept ownership of land owned by William M. Larned & Sons, Inc. The property, located along County Highway #123 in the Town of Duanesburg, is being donated to the County for a proposed project that will improve the sight lines for a non-standard curve near the Norfolk Southern Railroad bridge. As indicated by Mr. Sheldon, the current curve's design does not allow adequate sight distance for larger vehicles, including the County's snowplows.

I recommend your approval.

Schenectady County
Inter-Department Memorandum

DATE: December 16, 2022

TO: Rory Fluman, County Manager

FROM: Paul Sheldon, Director of Public Works PDS

COPIES: File

SUBJECT: Authorization to Accept Ownership of Land Owned by William M. Larned & Sons Inc.
In the Town of Duanesburg

We are requesting authorization to accept ownership of land owned by William M. Larned & Sons Inc. along Depot Road in the Town of Duanesburg. We have been in discussions with the owner concerning the donation of property to improve a non-standard curve near the Norfolk Southern Railroad bridge. The highway curve does not allow vehicles adequate sight distance to see beyond the railroad bridge making it difficult for larger vehicles, including our snowplows to negotiate the curve safely. The proposed project will improve the sight lines through the curve.

The developer has agreed to donate the property and will construct the realigned road to the subbase level. The County will complete the final paving and striping of the realigned road.

We request this be placed on the January, 2023 legislative agenda for their consideration.

Please advise if you need additional information.

PORTION OF LOT 10 - WOODSTONE SUBDIVISION

ALL THAT PIECE OR PARCEL OF LAND LOCATED OVER A PORTION OF LOT 10 – WOODSTONE SUBDIVISION AND BEING WITHIN THE TOWN OF DUANESBURG, COUNTY OF SCHENECTADY, STATE OF NEW YORK, LYING ON THE WESTERLY SIDE OF DEPOT ROAD AND SOUTHERLY OF WOODSTONE CIRCLE AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCING AT THE INTERSECTION OF THE WESTERLY SIDE OF DEPOT ROAD WITH THE DIVISION LINE BETWEEN LOT 9 AND LOT 10 OF WOODSTONE SUBDIVISION THENCE, ALONG THE WESTERLY SIDE OF DEPOT ROAD THE FOLLOWING 2 COURSES AND DISTANCES:

- 1. NORTH 32° 30' 45" WEST, A DISTANCE OF 32.20' TO A POINT,**
- 2. NORTH 14° 44' 15" EAST, A DISTANCE OF 7.43' TO THE POINT OR PLACE OF**

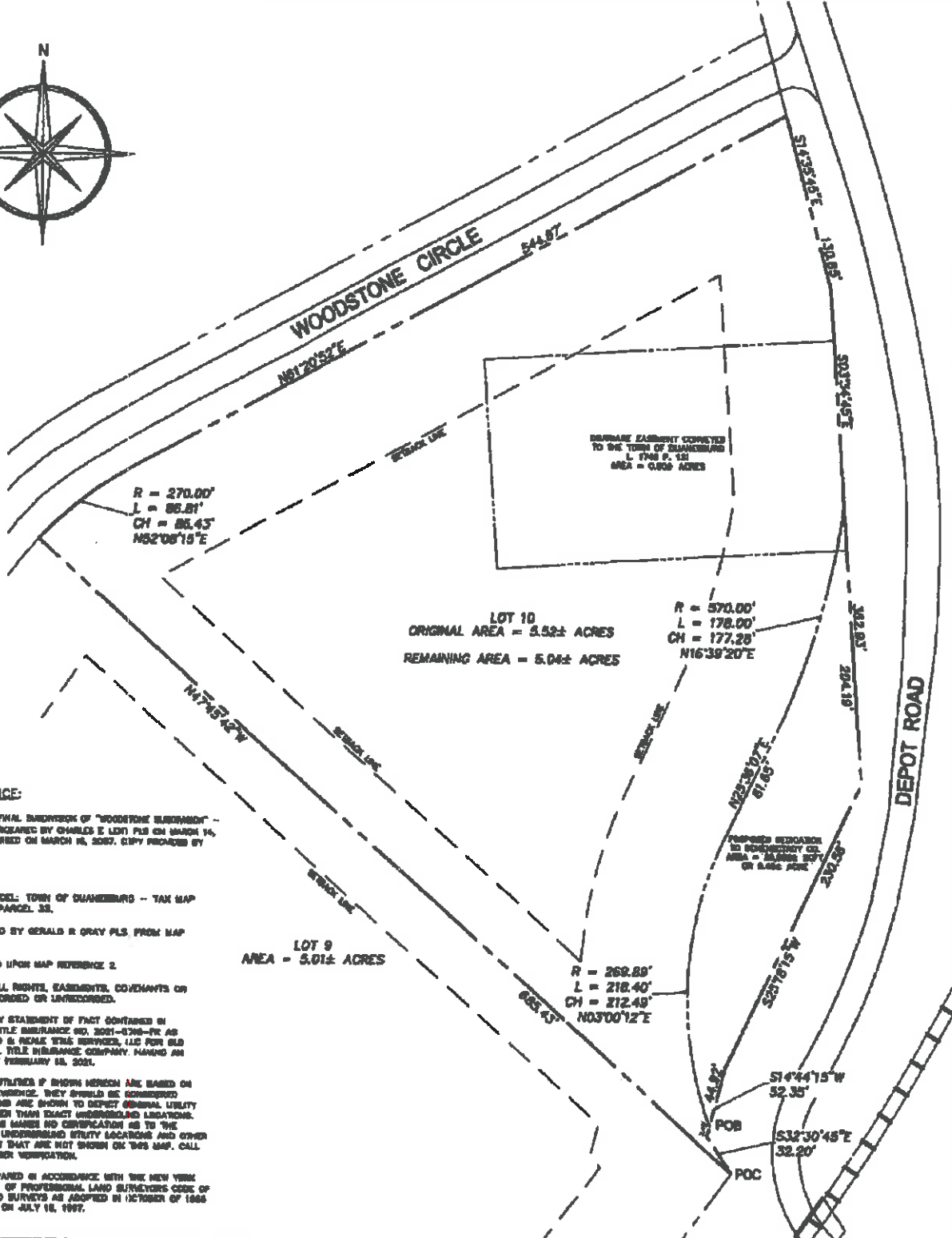
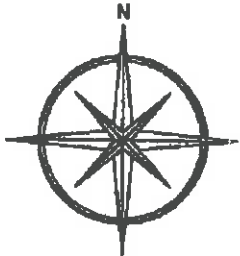
BEGINNING OF THE HEREIN DESCRIBED PARCEL THENCE THOROUGH LOT 10 – WOODSTONE SUBDIVISION THE FOLLOWING 3 COURSES AND DISTANCES.

- 1. ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 269.89' AND AN ARC LENGTH OF 218 40' (CH = 212.49', NORTH 03° 00' 12" EAST) TO A POINT,**
- 2. NORTH 25° 36' 07" EAST, A DISTANCE OF 81.65' TO A POINT,**
- 3. ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 570.00' AND AN ARC LENGTH OF 178 00' (CH = 177.28', NORTH 16° 39' 20" EAST) TO A POINT ON THE WESTERLY SIDE**

OF DEPOT ROAD. THENCE, ALONG THE WESTERLY SIDE OF DEPOT ROAD THE FOLLOWING 3 COURSES AND DISTANCES:

- 1. SOUTH 03° 34' 45" EAST, A DISTANCE OF 204.19' TO A POINT,**
- 2. SOUTH 25° 18' 15" WEST, A DISTANCE OF 230.56' TO A POINT,**
- 3. SOUTH 14° 44' 15" WEST, A DISTANCE OF 52 35' TO THE POINT OR PLACE OF**

BEGINNING AND CONTAINING 20,808+/- SQFT OR 0.48+/- ACRE OF LAND.



MAP REFERENCE:

1) MAP ENTITLED "FINAL BOUNDARY OF 'WOODSTONE SUBDIVISION' - DEPOT ROAD" AS PREPARED BY CHARLES E. LEWIS PLS ON MARCH 14, 2005 AND LAST REVISED ON MARCH 16, 2007. COPY PROVIDED BY SURVEYOR.

NOTES:

- 1) SURVEYED PARCEL: TOWN OF SHARONBURG - TAX MAP 85.00, BLOCK 2, PARCEL 33.
- 2) PLAT PREPARED BY GERALD R. GRAY PLS FROM MAP REFERENCE.
- 3) NORTH IS BASED UPON MAP REFERENCE 2.
- 4) SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS OR RESTRICTIONS, RECORDED OR UNRECORDED.

5) SUBJECT TO ANY STATEMENT OF FACT CONTAINED IN COMMITMENT FOR TITLE INSURANCE NO. 1001-6790-7H AS PREPARED BY FORD & NICKLE TITLE SERVICES, LLC FOR OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, HAVING AN EFFECTIVE DATE OF FEBRUARY 18, 2001.

6) UNDERGROUND UTILITIES IF SHOWN HEREON ARE BASED ON VISIBLE PHYSICAL EVIDENCE. THEY SHOULD BE CONSIDERED INDICATIVE ONLY AND ARE SHOWN TO DEPICT GENERAL UTILITY CONNECTIONS RATHER THAN EXACT UNDERGROUND LOCATIONS. GERALD R. GRAY PLS MAKES NO CERTIFICATION AS TO THE ACCURACY OF THE UNDERGROUND UTILITY LOCATIONS AND OTHER UTILITIES MAY EXIST THAT ARE NOT SHOWN ON THIS MAP. CALL ONECALL FOR FURTHER VERIFICATION.

7) SURVEY IS PREPARED IN ACCORDANCE WITH THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS CODE OF PRACTICE FOR LAND SURVEYS AS ADOPTED IN NOVEMBER OF 1999 AND LAST REVISED ON JULY 18, 1997.

<p>Ordering Title: Portion to be conveyed to Schenectady County</p>	<p>175 Woodstone Circle Sharonburg NY Schenectady County</p>	<p>Lot 10 - Woodstone Subdivision</p>	<p>Order: 011 Date: 11/18/07 Worksheet: Date: 11/18/07</p>
--	--	---------------------------------------	---

Gerald R. Gray
 Licensed Land Surveyor
 Latham NY 518-312-1335

Gerald R Gray
 Licensed Land Surveyor
 Latham NY 518-312-1335



LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference:
Initiative: PFTI 4

Title of Proposed Resolution:

A RESOLUTION AUTHORIZING THE COUNTY MANAGER TO ENTER INTO A MULTI-YEAR AGREEMENT WITH THE NYS DEPARTMENT OF TRANSPORTION REGARDING HIGHWAY WORK PERMITS

Purpose and General Idea:

Authorization to Enter into a Multi-Year Agreement with NYS Department of Transportation

Summary of Specific Provisions:

Provides authorization to enter into an agreement with the New York State Department of Transportation for a Highway work permit. This is an annual work permit that allows local municipalities to work on existing public facilities within the New York State right-of-way.

Effects Upon Present Law:

None.

Justification:

The permit is normally signed annually, however, the State is requesting the County to pass a resolution to enter into a 20-year agreement with NYSDOT.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager *R.F.*

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Public Works

Date: December 30, 2022

RE: Authorization to Enter into a Multi-Year Agreement with NYS Department of Transportation

Attached is a memorandum from Paul Sheldon, Director of Public Works, requesting authorization to enter into a multi-year agreement with the NYS Department of Transportation for a Highway Work Permit. This permit allows the County to cover repairs of existing public facilities with the NYS Right-of-Way. While this is usually an annual permit, NYS is requesting that the County enter into a twenty-year agreement instead.

I recommend your approval.

**Schenectady County
Inter-Department Memorandum**

DATE: December 16, 2022
TO: Rory Fluman, County Manager
FROM: Paul Sheldon, Director of Public Works
COPIES: File
SUBJECT: NYSDOT Annual Work Permit

PSS

Attached you will find a New York State Department of Transportation (NYSDOT) Highway Work Permit. This is an annual work permit which allows local municipalities to work on existing public facilities within the New York State right-of-way. The permit is normally signed annually, however the State is requesting the County pass a resolution to enter into a 20-year agreement with NYSDOT.

We request this be placed on the legislative agenda for their consideration.

Please advise if you need additional information.

Angelo Melillo

From: Harrington, James (DOT) <James.Harrington@dot.ny.gov>
Sent: Thursday, December 08, 2022 9:48 AM
To: sfortune@princetown.net, 'mreed@princetown.net'; 'PLester@niskayuna.org'; 'Liamora@rotterdamny.org', delansonvillageclerk@gmail.com; plafond@SCHENECTADYNY.gov, 'Wreed@duanesburg.net'; 'rkadzior@villageofscotiainy.gov'; Joe Landry; Angelo Melillo; Tstocker@townofglenville.org; tcoppola@townofglenville.org; Craig D'Allaird; ccuomo@princetown.net; Angelo Melillo
Cc: Corbett, Chad J. (DOT)
Subject: RE NYS DOT Annual Work Permit in Schenectady County
Attachments: 1-6 Schenectady Municipal R-1 Annual Maintenance Permits Cover Sheet 2023.doc; PERM 32 Rev 121515 - 2023-FINAL annual Municip_KLC.pdf, PERM 1 (2-12).pdf

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

December 8, 2022

To All,

Your Municipality's Highway Work Permit will expire on December 31, 2022. This is the annual work permit issued to the Town/City/Village/County to cover repairs of existing public facilities within the New York State Right-of-Way. The forms necessary for the renewal are enclosed. **Any new utility installations and/or any non-utility construction projects will require a separate Highway Work Permit.**

The Towns of Rotterdam, Duaneburg, Glenville, Niskayuna, and Princetown, the Villages of Scotia and Delanson, and the city of Schenectady have a PERM 1, Municipal Undertaking On File, (UOF) with the State. This Undertaking satisfies the Highway Work Permit insurance and performance bonding requirements.

Schenectady County needs a signed undertaking (PERM1), then pass a resolution allowing the County representative (Supervisor) to sign the Undertaking. ~~Once this is done the undertaking is good for 20 years.~~

A new requirement for a Highway Work Permit Application is for the Town to provide proof of coverage (Form C-105.2, U-28.3 or SI-12 for Worker's Compensation, and DB-120.1 or DB-155 for Disability Benefits), or provide proof of exemption from this requirement (Form CE-200).

The proof of Worker's Compensation and Disability Benefits or proof of exemption are to be returned along with the completed and signed application to this office at the New York State Department of Transportation, 3008 Chrysler Ave, Schenectady, New York, 12303 by 01/01/2023.

If you have any questions, please call this office at (518) 393-0863.

Sincerely,

James Harrington
Assistant Resident Engineer
New York State Department Of Transportation, Region1
3008 Chrysler Ave
Schenectady, NY 12303

Self Insured
Proof copy for



UNDERTAKING
For the benefit of
The New York State Department of Transportation
In connection with work affecting state highways
(For use by New York municipalities and federal agencies)

WHEREAS, the undersigned _____ (Municipality, County, Town, City or Village, or any agency of the federal government, hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

1. Permit Applications. Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration

2. Applicable Rules, Regulations & Conditions. Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

3. Site Restoration. Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities. In which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

4. **Payment & Release of Liens.** Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.

5. **Indemnity.** In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

IN WITNESS WHEREOF, _____ (Municipality-County, Town, City, Village or federal agency) agrees to the terms of this Undertaking, and has caused its execution by the authorized officer or employee (attach Resolution of Approval).

Authorized Agent

Date

Print Name/Title

Address

() _____
Phone number

Address

e-mail

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference: Ways and Means
Initiative: PFTI 5

Title of Proposed Resolution:

A RESOLUTION TO ACCEPT MONIES FROM THE WATER QUALITY IMPROVEMENT PROGRAM OF THE NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE PURCHASE OF EQUIPMENT

Purpose and General Idea:

Authorization to Accept the NYS Department of Environmental Conservation Water Quality Improvement Program Grant.

Summary of Specific Provisions:

Provides authorization to accept the NYS Department of Environmental Conservation Water Quality Improvement Program Grant in the amount of \$325,000 to purchase a new vacuum truck for the public works department. The vacuum truck is used as part of the Municipal Separate Storm Sewer System (MS4) program to clean out catch basins, storm sewer pipes, and culverts. The truck costs about \$470,000 and is currently on State contract. The grant requires that at least 25% of the award amount to be matched for the project. The County cost share shall be 31% (\$145,000)

Effects Upon Present Law:

The Department of Finance provides the following amendment to the 2023 Capital Budget to purchase a new vacuum truck for the Department of Engineering and Public Works through the award of grant funding under the NYSDEC Water Quality Improvement Program.

CAPITAL BUDGET

Establish Capital Project 8397230086 – Water Quality Improvement Grant – Vacuum Truck

Increase Appropriation:

H548397.201000	Capital Equipment – Water Quality Improvement Grant	\$470,000
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Increase Revenue:

H33333.3991	Water Quality Improvement Grant	\$325,000
H93333.5710	Serial Bonds	\$145,000
		\$470,000

I recommend that this budget amendment be presented to the County Legislature for consideration.

Justification:

The vacuum truck reduces sediment debris and other materials from entering the Mohawk watershed from urban areas. The County’s current vacuum truck, is nearly 15 years old and reaching the end of its useful life.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY

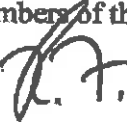


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Public Works
Jaclyn Falotico, Commissioner of Finance

Date: December 20, 2022

Re: Authorization to Accept the NYS Department of Environmental Conservation
Water Quality Improvement Program Grant

Attached is a memorandum from Paul Sheldon, Director of Public Works, requesting authorization to accept the NYS Department of Environmental Conservation Water Quality Improvement Program Grant in the amount of \$325,000 to purchase a new vacuum truck for the public works department. Use of the truck minimizes contamination of the Mohawk watershed from urban areas. As Mr. Sheldon indicates, the county's current vacuum truck is nearing the end of its life after 15 years of use. The grant requires at least 25% of the award amount to be matched for the project. The vacuum truck costs approximately \$470,000 and is currently on State contract. The County cost share shall be 31% (\$145,000).

The attached memorandum from Jaclyn Falotico, Commissioner of Finance, details the necessary budget amendment.

I recommend your approval.

County of Schenectady
620 State Street, 3rd Floor,
Schenectady, N. Y. 12305
(518) 388-4260
(518) 388-4248 Fax



Memo

TO: Rory Fluman, County Manager
FROM: Jaelyn Falotico, Commissioner of Finance *JF*
DATE: December 30, 2022
SUBJECT: Capital Budget Amendment – Water Quality Improvement Program – DEPW

The Department of Finance provides the following amendment to the 2023 Capital Budget to purchase a new vacuum truck for the Department of Engineering and Public Works through the award of grant funding under the NYSDEC Water Quality Improvement Program.

CAPITAL BUDGET

Establish Capital Project 8397230086 – Water Quality Improvement Grant – Vacuum Truck

Increase Appropriation:

H548397.201000	Capital Equipment – Water Quality Improvement Grant	<u>\$470,000</u>
----------------	---	------------------

Increase Revenue:

H33333.3991	Water Quality Improvement Grant	\$325,000
H93333.5710	Serial Bonds	<u>\$145,000</u>
		<u>\$470,000</u>

I recommend that this budget amendment be presented to the County Legislature for consideration.

Memo

TO: Rory Fluman, County Manager
FROM: Jaclyn Falotico, Commissioner of Finance
DATE: December 30, 2022
SUBJECT: Capital Budget Amendment -- Water Quality Improvement Program – DEPW

The Department of Finance provides the following amendment to the 2023 Capital Budget to purchase a new vacuum truck for the Department of Engineering and Public Works through the award of grant funding under the NYSDEC Water Quality Improvement Program.

CAPITAL BUDGET

Establish Capital Project 8397230086 – Water Quality Improvement Grant – Vacuum Truck

Increase Appropriation:

H548397.201000	Capital Equipment – Water Quality Improvement Grant	<u>\$470,000</u>
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Increase Revenue:

H33333.3991	Water Quality Improvement Grant	\$325,000
H93333.5710	Serial Bonds	<u>\$145,000</u>
		<u>\$470,000</u>

I recommend that this budget amendment be presented to the County Legislature for consideration.

**Schenectady County
Inter-Department Memorandum**

DATE: December 15, 2022
TO: Rory Fluman, County Manager
FROM: Paul Sheldon, Director of Public Works PSS
COPIES: File
SUBJECT: Water Quality Improvement Project Round 17 – Grant Award
Award Contract Number – C01490GG

Schenectady County has been awarded a \$325,000.00 grant under the NYSDEC Water Quality Improvement Program to purchase a new vacuum truck for the Public Works Department. The vacuum truck is used as part of the Municipal Separate Storm Sewer System (MS4) program to clean out catch basins, storm sewer pipes and culverts. Use of the truck reduces sediment, debris and other materials from entering the Mohawk watershed from urban areas. The County's current vacuum truck is nearly 15 years old and reaching the end of its useful life.

The grant requires at least 25% of the award amount as a match for the project. The cost of the vacuum truck is approximately \$470,000.00 and is currently on State contract. The cost shares shall be as follows:

WQIP Grant	\$325,000.00
<u>County Share (31%)</u>	<u>\$145,000.00</u>
Total Cost	\$470,000.00

Please advise should you need additional information.

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address) Department of Environmental Conservation 625 Broadway Albany, NY 12233-1080</p>	<p>BUSINESS UNIT/DEPT ID: DEC01 CONTRACT NUMBER: DEC01-C01490GG-3330000 CONTRACT TYPE: <input type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input checked="" type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME: SCHENECTADY COUNTY OF</p>	<p>TRANSACTION TYPE: <input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOES INCORPORATED NAME: Schenectady County</p>	<p>PROJECT NAME: Schenectady County - Vacuum Truck in MS4 areas</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS NYS Vendor ID Number: 1000002365 Federal Tax ID Number: 146002431 DUNS Number (if applicable): 162574808</p>	<p>AGENCY IDENTIFIER: CFDA NUMBER (Federally Funded Grants Only)</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS ATTN COUNTY CLERK 620 STATE ST SCHENECTADY, NY 12305</p> <p>CONTRACTOR PAYMENT ADDRESS <input checked="" type="checkbox"/> Check if same as primary mailing address</p> <p>CONTRACT MAILING ADDRESS <input checked="" type="checkbox"/> Check if same as primary mailing address</p>	<p>CONTRACTOR STATUS: <input type="checkbox"/> For Profit <input checked="" type="checkbox"/> Municipality, Code: 420100000000 <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input type="checkbox"/> Not-for-Profit</p> <p>Charter Registration Number</p> <p>Exemption State/Code</p> <p><input type="checkbox"/> Sectorsan Entity</p>

Contract Number # DEC01-C01490GG-3330000

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Master Grant Contract, Face Page.

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>CURRENT CONTRACT TERM: From: 07/22/2022 To: 07/22/2023</p> <p>CURRENT CONTRACT PERIOD: From: 07/22/2022 To: 07/22/2023</p> <p>AMENDED TERM: From: To:</p> <p>AMENDED PERIOD: From: To:</p>	<p>CONTRACT FUNDING AMOUNT (Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount).</p> <p>CURRENT: \$325,000.00</p> <p>AMENDED:</p> <p>FUNDING SOURCE(S)</p> <p><input checked="" type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other</p>
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FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT
(Out years represents projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1				
2				
3				
4				
5				

Contract Number # DEC91-C01490GG-335000

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Master Grant Contract, Face Page

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

ATTACHMENTS PART OF THIS AGREEMENT

Attachment A:

- A-1 Program Specific Terms and Conditions
- A-2 Federally Funded Grants

Attachment B:

- B-1 Expenditure Based Budget
- B-2 Performance Based Budget
- B-3 Capital Budget
- B-4 Net Deficit Budget
- B-1 (A) Expenditure Based Budget (Amendment)
- B-2 (A) Performance Based Budget (Amendment)
- B-3 (A) Capital Budget (Amendment)
- B-4 (A) Net Deficit Budget (Amendment)

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Other: Attachment E

Contract Number #: DEC01-C01490G0-3350000

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Master Grant Contract, Face Page

IN WITNESS WHEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and amendments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (ii) in acting in the capacity as a not-for profit Contractor, the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (iii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on this Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR
SCHENECTADY COUNTY OF

By: RORY FLUMAN

Printed Name

Title: County Manager

Date: 11/22/2022

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract

STATE AGENCY:

Department of Environmental Conservation

By: Nancy Lussier

Printed Name

Title: Director, Division of Management and Budget Services

Date: 11/23/2022

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: Leslie Robinson

Printed Name

Title: Associate Attorney

Date: 11/23/2022

STATE COMPTROLLER'S SIGNATURE

By: Christopher Richards

Printed Name

Title: Contract Management Specialist 2

Date: 11/30/2022

Contract Number: # DEC01-C01490GG-3350000

Page 1 of 1, Master Contract for Grants Signature Page

**STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable, and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

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five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as "Contract Funding Amount" on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

¹ To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

² To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).
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OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:

- a) by certified or registered United States mail, return receipt requested;
- b) by facsimile transmission;
- c) by personal delivery;
- d) by expedited delivery service; or
- e) by e-mail.

2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).

3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the

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Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from

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any of the State of New York, the State Agency, or any county, or other local government entity. The term "regulatory action" shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.³

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

³As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

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II. TERM, TERMINATION AND SUSPENSION

A. **Term:** The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. **Renewal:**

1. **General Renewal:** The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a "Simplified Renewal Contract"). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. **Renewal Notice to Not-for-Profit Contractors:**

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ("Unusual Circumstances"), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, "Unusual Circumstances" shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State's intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

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C. Termination:

1. Grounds:

- a) **Mutual Consent:** The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) **Cause:** The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) **Non-Responsibility:** In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) **Convenience:** The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) **Lack of Funds:** If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) **Force Majeure:** The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

- a) **Service of notice:** Written notice of termination shall be sent by:
 - (i) personal messenger service; or
 - (ii) certified mail, return receipt requested and first class mail.

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b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. *Effect of Notice and Termination on State's Payment Obligations:*

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. *Effect of Termination Based on Misuse or Conversion of State or Federal Property:*

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. *Suspension:* The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

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III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

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B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
 - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

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The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:⁴ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:⁵ Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

⁴ A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

⁵ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁶ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁷ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).

i) Fifth Quarter Payments:⁸ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number.

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

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(ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

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2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor, or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

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2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or sub-contractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting

Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.
2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
 - a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
 - b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.
 - c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
 - d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
 - e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any

Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(j) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,

detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

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F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NY5-P08-005, Accessibility

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Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005. Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-s of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

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2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;

3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and

5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 - 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:

a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

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b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following.

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may

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obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

a) to require updates or clarifications to the Questionnaire upon written request;

b) to inquire about information included in or required information omitted from the Questionnaire;

c) to require the Contractor to provide such information to the State within a reasonable timeframe; and

d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

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- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:⁹ If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

Q. Wage and Hours Provisions: If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

⁹ Not applicable to not-for-profit entities.

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**ATTACHMENT A-1
PROGRAM SPECIFIC TERMS AND CONDITIONS**

**Standard Clauses for All New York State
Department of Environmental Conservation Contracts**

The parties to the attached contract, license, lease, grant, amendment or other agreement of any kind (hereinafter "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract. The word "Contractor" herein refers to any party to the contract, other than the New York State Department of Environmental Conservation (hereinafter "Department")

A) AGENCY SPECIFIC TERMS AND CONDITIONS

I. Postponement, suspension, abandonment or termination by the Department: Within 15 days of receipt of notice, the Contractor shall deliver to the Department all data, reports, plans, or other documentation related to the performance of this contract, including but not limited to source codes and specifications, guarantees, warranties, as-built plans and shop drawings. In any of these events, the Department shall make settlement with the Contractor upon an equitable basis as determined by the Department which shall fix the value of the work which was performed by the Contractor prior to the postponement, suspension, abandonment or termination of this contract. This clause shall not apply to this contract if the contract contains other provisions applicable to postponement, suspension or termination of the contract.

II. Conflict of Interest

(a) **Organizational Conflict of Interest** - To the best of the Contractor's knowledge and belief, the Contractor warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Contractor has disclosed all such relevant information to the Department.

(1) An organizational conflict of interest exists when the nature of the work to be performed under this contract may, without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for the Department.

(2) The Contractor agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the Contractor will immediately make a full disclosure in writing to the Department. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Department, to avoid, mitigate, or minimize the actual or potential conflict.

(3) To the extent that the work under this contract requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

(b) **Personal Conflict of Interest** - The following provisions with regard to management or professional level employee personnel performing under this contract shall apply until the earlier of the termination date of the affected employee(s) or the duration of the contract.

(1) A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work. The Contractor agrees to notify the Department immediately of any actual or potential personal conflict of interest with regard to any such person working on or having access to information regarding this contract, as soon as Contractor becomes aware of such conflict. The Department will notify the Contractor of the appropriate action to be taken.

(2) The Contractor agrees to advise all management or professional level employees involved in the work of this contract,

that they must report any personal conflicts of interest to the Contractor. The Contractor must then advise the Department which will advise the Contractor of the appropriate action to be taken

(3) Unless waived by the Department, the Contractor shall certify annually that, to the best of the Contractor's knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the Department. Such certification must be signed by a senior executive of the Contractor and submitted in accordance with instructions provided by the Department. Along with the annual certification, the Contractor shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this contract. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.

(4) In performing this contract, the Contractor recognizes that its employees may have access to data, either provided by the Department or first generated during contract performance, of a sensitive nature which should not be released without Department approval. If this situation occurs, the Contractor agrees to obtain confidentiality agreements from all affected employees working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the Department, Department of Health or the New York Department of Law, any information or data provided by the Department or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the Department. If a Contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the Department so that the Department can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) **Remedies** - The Department may terminate this contract in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the Department, the Department may terminate the contract, or pursue such other remedies as may be permitted by the terms of Clause I of this Attachment or other applicable provisions of this contract regarding termination.

(d) The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has developed the statement of work or the solicitation package.

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder (except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services) provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the Department.

III. Dispute Resolution

The parties agree to the following steps, or as many as are necessary to resolve disputes between the Department and the Contractor.

(a) The Contractor specifically agrees to submit, in the first instance, any dispute relating to this contract to the designated individual, who shall render a written decision and furnish a copy thereof to the Contractor.

(1) The Contractor must request such decision in writing no more than fifteen days after it knew or should have known of the facts which are the basis of the dispute.

(2) The decision of the designated individual shall be the final DEC determination, unless the Contractor files a written appeal of that decision with the designated appeal individual (DAI) within twenty days of receipt of that decision.

- (b) Upon receipt of the written appeal, the DAI will review the record and decision. Following divisional procedures in effect at that time, the DAI will take one of the following actions, with written notice to the Contractor.
- (1) Remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review; or
 - (2) Determine that there is no need for further action, and that the determination of the designated individual is confirmed, or
 - (3) Make a determination on the record as it exists.
- (c) The decision of the DAI shall be the final DEC decision unless the Contractor files a written appeal of that decision with the Chair of the Contract Review Committee (CRC) within twenty days of receipt of that decision.

The designated individual to hear disputes is:

Edward Hampton, Director, Bureau of Water Compliance
 NYSDEC, Division of Water
 625 Broadway, 4th Floor, Albany, NY 12233
 518-402-8165

The designated appeal individual to review decisions is:

Carel Lamb-Lafky, Acting Director, Division of Water
 NYSDEC, Division of Water
 625 Broadway, 4th Floor, Albany, NY 12233-3505
 518-402-8111

The Chair of the Contract Review Committee is:

Department of Environmental Conservation
 Nancy W. Lussier, Chair
 Contract Review Committee
 625 Broadway
 Albany, NY 12233-5010
 Telephone: 518-402-9328

- (d) Upon receipt of the written appeal, the Chair of the CRC, in consultation with the members of the CRC and the Office of General Counsel, will take one of the following actions, or a combination thereof, with written notice to the Contractor.
- (1) Remand the matter to program staff for additional fact finding, negotiation, or other appropriate action; or
 - (2) Adopt the decision of the DAI, or
 - (3) Consider the matter for review by the CRC in accordance with its procedures.
- (e) Following a decision to proceed pursuant to (d) 3, above, the Chair of the CRC shall convene a proceeding in accordance with the CRC's established contract dispute resolution guidelines. The proceeding will provide the Contractor with an

opportunity to be heard

- (f) Following a decision pursuant to (d) 2 or (d) 3, the CRC shall make a written recommendation to the Deputy Commissioner for Administration who shall render the final DEC determination.
- (g) At any time during the dispute resolution process, and upon mutual agreement of the parties, the Office of Hearings and Mediation Services (OHMS) may be requested to provide mediation services or other appropriate means to assist in resolving the dispute. Any findings or recommendations made by the OHMS will not be binding on either party.
- (h) Final DEC determinations shall be subject to review only pursuant to Article 78 of the Civil Practice Law and Rules.
- (i) Pending final determination of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract in accordance with the decision of the designated individual. Nothing in this Contract shall be construed as making final the decision of any administrative officer upon a question of law.
- (j)(1) Notwithstanding the foregoing, at the option of the Contractor, the following shall be subject to review by the CRC. Disputes arising under Article 15-A of the Executive Law (Minority and Women Owned Business participation), the Department's determination with respect to the adequacy of the Contractor's Utilization Plan, or the Contractor's showing of good faith efforts to comply therewith. A request for a review before the CRC should be made, in writing, within twenty days of receipt of the Department's determination.
- (2) The CRC will promptly convene a review in accordance with Article 15-A of the Executive Law and the regulations promulgated thereunder.

IV. Tax Exemption

Pursuant to Tax Law Section 1116, the State is exempt from sales and use taxes. A standard state voucher is sufficient evidence thereof. For federal excise taxes, New York's registration Number 14740026K covers tax-free transactions under the Internal Revenue Code.

V. Litigation Support

In the event the Department becomes involved in litigation related to the subject matter of this contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Any compensation paid to the Contractor under this paragraph will be negotiated and based on the rates established in the contract, or as may otherwise be provided in the contract. No compensation for such support will be paid if the litigation is the result of the Contractor's misconduct, negligence or omissions.

VI. Inventions or Discoveries

The Scope of work of this agreement shall not include any inventions. If however, an invention results from this project it shall be owned as follows:

Any invention or discovery first made or conceived and reduced to practice in the performance of this Contract solely by the Contractor shall remain with the Contractor, provided that the Contractor shall grant to the Department and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the Department and the State the subject copyright throughout the world, where the Contractor is able to do so.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract solely by Department or State shall remain with the State, provided that the Department or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract jointly by Contractor and Department or State in the performance of this work shall be jointly held by the Contractor and Department or State.

VII. Intellectual Property and Copyright Materials

(a) Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by Contractor in the performance of this work shall remain with the Contractor, provided that the Contractor shall grant to the Department and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for on behalf of the Department and the State the subject copyright throughout the world, where the Contractor is able to do so.

Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by Department or State in the performance of this work shall remain with the State, provided that the Department or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created jointly by Contractor and Department or State in the performance of this work shall be jointly held by the Contractor and Department or State

VIII. Patent and Copyright Protection

If any patented or copyrighted material is involved in or results from the performance of this Contract, this Article shall apply.

(a) The Contractor shall, at its expense, defend any suit instituted against the Department and indemnify the Department against any award of damages and costs made against the Department by a final judgment of a court of last resort based on the claim that any of the products, services or consumable supplies furnished by the Contractor under this Contract infringes any patent, copyright or other proprietary right, provided the Department gives the Contractor

- (1) prompt written notice of any action, claim or threat of infringement suit, or other suit, and
- (2) the opportunity to take over, settle or defend such action at the Contractor's sole expense, and
- (3) all available information, assistance and authority necessary to the action, at the Contractor's sole expense

The Contractor shall control the defense of any such suit, including appeals, and all negotiations to effect settlement, but shall keep the Department fully informed concerning the progress of the litigation.

(b) If the use of any item(s) or parts thereof is held to infringe a patent or copyright and its use is enjoined, or Contractor believes it will be enjoined, the Contractor shall have the right, at its election and expense to take action in the following order of precedence:

- (1) procure for the Department the right to continue using the same item or parts thereof,
- (2) modify the same so that it becomes non-infringing and of at least the same quality and performance;
- (3) replace the item(s) or parts thereof with noninfringing items of at least the same quality and performance;
- (4) if none of the above remedies are available, discontinue its use and eliminate any future charges or royalties pertaining thereto. The Contractor will buy back the infringing product(s) at the State's book value, or in the event of a lease, the

parties shall terminate the lease. If discontinuation or elimination results in the Contractor not being able to perform the Contract, the Contract shall be terminated.

- (c) In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any item or material pursuant to or resulting from this Contract infringes any patent, copyright or proprietary right, and such action is forwarded by the Department to the Contractor for defense and indemnification pursuant to this Article, the Department shall copy all pleadings and documents forwarded to the Contractor together with the forwarding correspondence and a copy of this Contract to the Office of the Attorney General of the State of New York. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification set forth in this Article, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York in writing and shall specify to what extent the Contractor believes it is, and is not obligated to defend and indemnify under the terms and conditions of this Contract. The Contractor shall in such event protect the interests of the Department and State of New York and secure a continuance to permit the State of New York to appear and defend its interests in cooperation with Contractor as is appropriate, including any jurisdictional defenses which the Department and State shall have.
- (d) The Contractor shall, however, have no liability to the Department under this Article if any infringement is based upon or arises out of
- (1) compliance with designs, plans, or specifications furnished by or on behalf of the Department as to the items,
 - (2) alterations of the items by the Department;
 - (3) failure of the Department to use updated items provided by the Contractor for avoiding infringement,
 - (4) use of items in combination with apparatus or devices not delivered by the Contractor,
 - (5) use of items in a manner for which the same were neither designed nor contemplated; or
 - (6) a patent or copyright in which the Department or any affiliate or subsidiary of the Department has any direct or indirect interest by license or otherwise.
- (e) The foregoing states the Contractor's entire liability for, or resulting from, patent or copyright infringement or claim thereof.

IX. Freedom of Information Requests

In response to a Freedom of Information Law (FOIL) request received by the Department, the Contractor agrees to provide to the Department records generated by the Contractor as a result of this contract's scope of work that are responsive to the FOIL request. The contractor may request that the Department exempt from disclosure records on the basis that they contain trade secrets or confidential commercial information in accordance with FOIL (Public Officers Law Section 87 and 6 NYCRR Part 616).

X. Article 15-Requirements

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

(a) General Provisions

- (1) The Department is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
 - (2) The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department (the "Department"), to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEOC") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.
 - (3) Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Article or enforcement proceedings as allowed by the Contract.
- (b) Contract Goals**
- (1) For purposes of this procurement, the Department hereby establishes an overall goal of up to 8% for Minority and Women-Owned Business Enterprises ("MWBE") participation, (based on the current availability of qualified MBEs and WBEs).
 - (2) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: <https://ny.acwnycontracts.com>. Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.
 - (3) Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-e of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Department for liquidated or other appropriate damages, as set forth herein.
- (c) MWBE Responsibilities & Requirements**
- (1) Contractors must read, sign, and submit the NYSED MWBE Responsibilities & Requirements document. This document describes the MWBE requirements and provides directions for completing the required MWBE Utilization Plan form and subsequent Quarterly Reports.
 - (2) By signing and submitting this document, the Contractor acknowledges they understand the assigned MWBE goals, the MWBE Utilization Plan form requirements, the MWBE Quarterly Report requirements, and understand what Good Faith Efforts they must put forth to meet their assigned MWBE goals.
- (d) MWBE Utilization Plan**
- (1) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract.

- (2) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section X-B-1 of this Attachment
- (3) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

(e) Equal Employment Opportunity (EEO)

- (1) Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the State of Economic Development (the "Division") if any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements. Contractor shall comply with the following provisions of Article 15-A.

- (i) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- (ii) The Contractor shall submit an EEO policy statement to the Department within seventy-two (72) hours after the date of the notice by Department to award the Contract to the Contractor
- (iii) If Contractor or Subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or Subcontractor a model statement. This statement can be found at the link provided in Section 8
- (iv) The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employer, Department, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employer, Department, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein
 - d. The Contractor will include the provisions of subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

(2) Staffing Plan Form

To ensure compliance with this Section, the Contractor shall submit a Staffing Plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing Plan as part of the MWBE Utilization Plan and submit at the time of award of the contract.

(3) Workforce Employment Utilization Report Form ("Workforce Report")

- (i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
- (ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.
- (iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

(4) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(f) Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report Form to the Department by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

(g) Waivers

(1) For Waiver Requests Contractor should use Waiver Request Form.

(2) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(3) If the Department, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

(b) Liquidated Damages - MWBE Participation

- (1) Where Department determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.
- (2) Such liquidated damages shall be calculated as an amount equaling the difference between:
 - (i) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - (ii) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- (3) In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Department.

(l) **Forms**

Forms referenced in this Article can be found at <http://www.dec.ny.gov/about/48854.htm>

XI. Iran Divestment Act Requirements

By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ges.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities List after contract award.

XII. Americans With Disabilities Act

In the event the monies defined herein are to be used for the development of facilities, outdoor recreation areas, transportation or written or spoken communication with the public, the Contractor shall comply with all requirements for providing access for individuals with disabilities as established by Article 4A of the New York State Public Buildings Law, Americans with Disabilities Act, and relevant sections of the New York State Uniform Fire Prevention and Building Code. Standards for certain Recreation Facilities are found in the 2010 ADA Standards for Accessible Design while others are found in the Architectural Barriers Act Accessibility Guidelines for Outdoor Recreation Areas, <https://www.access-board.gov/guidelines-and-standards>

XIII. Public Access to Facilities

If applicable to the project, the Contractor agrees to allow public access to any facilities developed with monies defined herein on the same basis to all residents of New York State for a period not less than five (5) years after the date of final payment under this Contract or five (5) years after the date that the final payment was due. Failure to comply with the provisions of this clause shall be considered an abandonment of the Project.

XIV. Project Insurance Considerations

Refer to project insurance requirements as set forth in A-1 (B) Program Specific Terms and Conditions.

XV. Amendment/Extensions

The Contract may be amended and/or extended by mutual written consent of all parties. Amendment forms will be incorporated into this Contract and will not take effect until approved by all applicable State agencies and final approval by the Office of the State Comptroller, if applicable. Contract amendments may be conditioned upon funds being re-appropriated in the State Budget each state fiscal year to the Department.

XVI. Environmental Protection Fund Acknowledgement

If applicable, in recognition of a portion of the Department funds utilized for any work completed under this Contract, the Contractor agrees to acknowledge in any communication to the public, that such funding was provided from the Environmental Protection Fund as administered by the New York State Department of Environmental Conservation.

XVII. Vendor Responsibility

- A. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- B. The Department recommends that vendors file a required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at <https://portal.ny.state.ny.us>.
- C. Vendors must provide their New York State Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at globaldesk@osc.state.ny.us. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of the Office of the State Comptroller's Help Desk for a copy of the paper form.
- D. Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Department officials or staff, the Contract may be terminated by the Commissioner or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

XVIII. Permits

- A. If applicable, the Contractor agrees to obtain all required permits, including but not limited to, local, state and federal permits prior to the commencement of any project related work. The Contractor agrees that all work performed in relation to the project by the Contractor or its agents, representatives, or contractors will comply with all relevant federal, state and local laws, rules, regulations and standards, zoning and building codes, ordinances, operating certificates for facilities, or licenses for an activity.
- B. With respect to the project, the contractor certifies that it has complied, and shall continue to comply with all requirements of the State Environmental Quality Review Act (SEQRA). The Contractor agrees to provide all environmental documents as may be required by the Department. The Contractor has notified, and shall continue to notify, the Department of all actions proposed for complying with the environmental review requirements imposed by

SEQRA

XIX. Approvals

The Contractor agrees that the project will be performed in accordance with the condition of any applicable administrative, judicial or governmental orders or approvals

XX. Site Access

If applicable, the Contractor represents it has or will obtain title to or sufficient interest in the project site, including rights-of-way and necessary easements, before the start of the project to ensure undisturbed use and possession for purposes of construction and completion of the project, as well as operation of the project throughout its useful life.

XXI. Cost Overruns

If applicable, any cost overruns will not be paid by the Department and the Department is not committed to seeking additional appropriations or re-appropriation of funds and will not be responsible for the maintenance and operation of any facility which may be developed or equipment which may be purchased with the funds herein identified.

XXII. Construction Plans

It is the Contractor's responsibility (if applicable to the Project) to have all construction contract plans, specifications and cost estimates certified by a professional engineer licensed to practice in the State of New York. All certified plans and specifications shall become part of this Contract and shall be kept on the project site at all times.

XXIII. Payment and Reporting

A. The Contractor agrees to fully fund the Project and then seek reimbursement from the Department for eligible project costs. The Department will not process final payment for this Contract, until the Department determines that the project was completed satisfactorily and upon receipt of all required final close-out payment documentation in accordance with the direction and requirements described in Attachment D.

B. The Contractor will be entitled to receive reimbursement payments for work, projects, and/or services rendered as detailed and described in Attachment C and Attachment D of this Contract. Claims for reimbursement must be accompanied by such receipts and documents verifying expenditures as may be required by the Department and by the Comptroller. Satisfactory documentation shall include, but is not limited to, signed copies of payment vouchers or invoices, canceled checks/or the latest cumulative work-in-place estimate for each construction Contract, and any further documentation as may be required by the Department and/or the Comptroller. The Department reserves the right, in its sole discretion, to determine if the reimbursement request and accompanying documentation submitted by the Contractor is in satisfactory form and substance. A final payment determination will be based upon the Department's review of the Contractor's final voucher submission and reporting as described in Attachment D.

XXIV. On-Site Inspections

The State, Department or authorized representatives will conduct a review of the Project funded from this Contract, which may include on-site inspections, at a time that is satisfactory to the Department.

XXV. Prohibition on Purchase of Tropical Hardwoods

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State of any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed

in § 165 State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor in ~~sub~~ with the approval of the State.

B) PROGRAM SPECIFIC TERMS AND CONDITIONS

- I. **Notices:** The Department's authorized representative for the implementation of this Contract and for approval, direction, and receipt of all Project reports called for in this Contract is listed below. Whenever it is provided in this Contract that notice must be given or other communications sent to the Department, the notices or communications must be in writing and delivered or sent to the Department's authorized representative at:

NYSDEC, Division of Water, Fiscal Planning and Management Section
625 Broadway, 4th Floor, Albany, NY 12233-3506
dswcontracts@dec.ny.gov

A copy of all legal notices shall be sent to:

General Counsel
New York State Department of Environmental Conservation
625 Broadway - 14th Floor
Albany, New York 12233-1500

The Contractor's authorized representative for the implementation of this Contract is the person authorized in the Resolution of Support for the contract. Notices or communications regarding this Contract should be in writing and delivered or sent to the Contractor's authorized representative at the address identified on the Face Page, with copies sent to the Contractor's contract administrator as identified in the contract application.

Notices delivered or sent shall be deemed for all purposes as notice to all persons who are Parties to this Contract as Department or Contractor.

II. Project Insurance Considerations

The Contractor agrees to procure and maintain at its own expense and without expense to the Department until final acceptance by the Department of the services covered by this Contract, insurance of the kinds and amounts as determined by the Department and based upon the project work plan. The insurance policies should be provided by insurance companies licensed to do business in the State of New York. Any delay or time lost as a result of the Contractor not having insurance required by the Contract shall not give rise to a delay claim or any other claim against the Department.

Upon execution of this Contract, the Contractor shall furnish to the Department a certificate or certificates satisfactory to the Department, showing that it has complied with this Article. The insurance documentation shall provide that:

- Liability and protective liability insurance policies shall provide primary and non-contributory coverage to the NYS Department of Environmental Conservation for any claims arising from the Contractor's Work under this contract, or as a result of Contractor's activities.
- The State of New York, NYS Department of Environmental Conservation, its officers, agents and employees, Division of Water, 625 Broadway 4th Floor, Albany, New York 12233-3506, shall be listed as Certificate Holder on all liability insurance certificate(s), as additional insureds on endorsements(s) and on additional supporting documentation.

- The policies shall include a waiver of subrogation endorsement in favor of the Department as an additional insured. The endorsement shall be on ISO Form Number CG 24 04 or a similar form with some modification to the policy.
- Policies shall not be changed or canceled until thirty (30) days prior written notice has been given to the Department, as evidenced by an endorsement or declarations page.
- Insurance documentation shall disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the Contract.
- Endorsements in writing must be added to and made part of the insurance contract for the purpose of changing the original terms to reflect the revisions and additions as described. A copy of these endorsements must be provided to the Department within a reasonable amount of time.
- Applicable insurance policy number(s) reference on the ACORD form must be referenced in the supporting documentation requested by the Department and supplied by the insurance company (e.g. endorsement page, declarations page, etc.).
- This Contract shall be void and of no effect unless the Contractor procures the required insurance policies and maintains them until completion of the work or acceptance by the Department, whichever event is later.

The kinds and amounts of insurance required are as follows:

- A. Workers' Compensation coverage must be provided for work to be performed in New York State. The Contractor shall provide and maintain full New York State coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law.

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

<u>FORM #</u>	<u>FORM TITLE</u>
C-105.2	Certificate of Workers' Compensation Insurance
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12/GSI-105.2	Certificate of Workers' Compensation Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

- B. Disability Benefits coverage must be provided for work to be performed in New York State. Municipal Contractors are exempt from this requirement. Contractors that are not municipal entities shall provide and maintain coverage during the life of the contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Department of Environmental Conservation and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

<u>FORM #</u>	<u>FORM TITLE</u>
DB-120.1	Certificate of Disability Benefit Insurance
DB-155	Certificate of Disability Benefit Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

An ACORD form is NOT an acceptable proof of Workers' Compensation coverage. ALL OF THE ABOVE

REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME The State of New York and The New York State Department of Environmental Conservation, Division of Water, 625 Broadway, 4th Floor, Albany, NY 12233-3500, as the Entity Requesting Proof of Coverage.

Additional information can be obtained at the Worker's Compensation website:
<http://www.web.ny.gov/content/main/Employers/Employers.jsp>

Upon review of the scope of work outlined in the Grant Application by the Department, the following types of liability insurance may be required:

- C. **Commercial General Liability Insurance** with a limit of not less than \$2,000,000 each occurrence, and \$5,000,000 General aggregate. Such insurance shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal and advertising injury, cross liability assumed in a contract (including tort liability of another assumed in a contract). Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.
- D. **Business Automobile Liability** with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any registered motor vehicle including owned, leased, hired and non-owned vehicles. If the Contractor does not own, rent or lease any registered vehicles and will not be using any vehicles on State Land proof of Business Automobile Liability Insurance shall not be required for this Contract. The Contractor shall assume full responsibility and liability that owners and operators of any registered vehicles entering State Land to conduct work under this contract carry the same Business Automobile Liability Insurance of the kinds and amounts listed above. NYS Department of Environmental Conservation reserves the right to request proof of the same.
- E. **Environmental Liability** with a limit of not less than \$1,000,000 providing primary coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against the Department of Environmental Conservation arising from the Contractor's Work.
- F. **Professional Liability Insurance** includes coverage for its negligent act, error or omission in rendering or failing to render professional services required by this contract arising out of specifications, installation, modification, abatement, replacement or approval of products, materials or processes containing pollutants, and the failure to advise of or detect the existence or the proportions of pollutants. The Contractor, any subcontractor or supplier retained by the Contractor to work on the contract shall procure and maintain during and for a period of three (3) years after completion of this contract, Professional Liability Insurance in the amount of \$1,000,000. The professional liability insurance may be issued on a claims-made policy form, in which case the Contractor shall purchase at its sole expense, extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.
- G. **Marine Protection & Indemnity:** Anytime the activity involves work on navigable water or the work is connected to water related activities, the Contractor shall procure Marine Protection & Indemnity and Hull and Machinery coverage, if available. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment. The Contractor shall obtain Protective and Indemnity Liability insurance for all marine operations under the contract, with a minimum \$2,000,000 limit.
- H. In addition, for Land Acquisition projects: The contractor will purchase a policy of title insurance in the amount equivalent to the purchase price of the land acquisition, issued by a Title Company licensed by the State of New York

and in a form acceptable to the New York State Department of Environmental Conservation, naming the contractor as the insured party

Should the Contractor engage a subcontractor, the Contractor shall impose the insurance requirements of this document on the subcontractor. Contractor shall determine the required insurance types and limits, commensurate with the work of the Subcontractor. The Contractor will maintain the certificate or certificates and endorsements for all subcontractors hired as part of the Contractor's records

III. Requirements for all Project Types

1. **Project Implementation.** The Contractor agrees to proceed expeditiously with the Project and shall complete the Project in accordance with the performance measures set forth in Attachment C (Work Plan) or any amendments to such Work Plan which are approved by the Department in writing and the Office of State Comptroller when applicable. The contractor shall also be in compliance and maintain compliance with all other obligations in any Orders on Consent with the Department, which relate to the Project
2. **Project Meetings and Information.** The Contractor agrees that it shall permit the Department to participate in all its meetings and conferences with respect to the Project. Upon request from the Department, the Contractor must submit to the Department reports, documents, data, contractual documents, administrative records and other information pertinent to the Project
3. **Project Access and Inspection.** The Contractor agrees to permit representatives of the Department to have unrestricted access to the Project at all reasonable times, and all contracts of the Contractor for construction or operation of all or a portion of the Project shall contain provisions that permit such access to the Project or work relating to the Project, wherever it is in preparation or progress, and that contractors or subcontractors shall provide proper facilities for such access and inspection and shall permit extracts and copies of Project records to be made by the representatives of the Department
4. **Project Signage.** In addition to requirements in A.J.A. XVI (Environmental Protection Fund Acknowledgement), the Department may require the installation of a project sign which identifies the EPF / Clean Water Infrastructure Act as a source of funding as outlined in the requirements and specifications attached to and made part of this contract as Attachment E

For projects with multiple funding sources the Contractor acknowledges that a portion of the project is funded by the Department as a Water Quality Improvement Project. The Contractor agrees to identify the Department as a source of funding for this project in any communications to the public. The Department may require the installation of a project sign which identifies it as a source of funding as outlined in the requirements and specifications attached to and made part of this contract as Attachment E

5. **For Projects Involving Construction (in addition to Attachment A.I.A. Article XXII -- Construction Plans)**
 - a. If requested by the Department, the Contractor agrees that it shall notify the Department in writing thirty (30) calendar days prior to the start of construction. If the start of construction began on or after May 1, 2018, upon approval of the Contract, the Contractor shall notify the Department in writing thirty (30) calendar days as to the status of any construction
 - b. If requested by the Department, the Contractor agrees that it shall notify the Department in writing thirty (30) days following initial start-up operation of the Project.

- c. The Contractor agrees that it shall cause the Project to be designed and constructed in accordance with the engineering report or facilities plan, and if applicable to the project, the plans and specifications for the Project shall be stamped with the seal of a licensed professional engineer and shall be signed with the personal signature of such engineer in compliance with Education Law §7209(1) and (2), and which have been delivered to and approved by the Department, as well as any amendments thereto.
6. **Project Completion.** Within sixty (60) calendar days after the end of the Contract Term, or upon final completion of the Project, the Contractor agrees that it will deliver the following to the Department:
- A certification stating that the Project has been completed in accordance with this Contract and, as applicable, constructed per the approved plans and specifications, and any approved amendments thereto.
 - As applicable, the certified "as built" plans and specifications for the Project. Any work not in accordance with the approved plans and specifications shall be remedied, unless such non-compliance is agreed to be waived by the Department.
 - As applicable, the Contractor shall retain all as-built plans and specifications for the Project for the useful life of the Project.
7. **Period of Eligible Costs.** Only eligible project-related costs incurred during the term of the contract as specified on the Master Contract for Grants Face Page are eligible for reimbursement by the Department.
8. **Project Match.** Only costs eligible for WQIP funding may be used as match for the grant. Eligible match costs must be incurred within the term of the contract as specified on the Master Contract for Grants Face Page. Match funds consist of cash contributions and in-kind services for the project and must come from a local source. State grants/funding cannot be used as match for any project type. In addition, for Aquatic Connectivity Restoration projects only, federal grants/funding cannot be used as match.
9. **Disposition of Assets.** The Contractor may, at its discretion, dispose of assets (e.g. hydro-seeder, vacuum truck, street sweeper) purchased with WQIP grant funding after the term of this contract and after completion of the useful life of the asset (as defined in State Finance Law Article 3, Section 61). All proceeds from the disposition of such assets shall be used by the Contractor for a similar purpose as the original WQIP-funded project.
10. **Quality Assurance:** Quality assurance applies to all programs/projects that involve the collection, generation or use of environmental data associated with the mapping, modeling, monitoring, and assessment of water quality data intended for use by the New York State Department of Environmental Conservation (DEC) for its regulatory purposes. This includes the design or use of water quality focused environmental technology. Guidance and resources for DEC's quality assurance can be found on [DEC's quality assurance webpage](#). Activities associated with these types of programs/projects, conducted in the field or laboratory, shall be:
- Performed in accordance with an effective quality system for planning and assessing environmental measurements and tests, and for conducting required quality assurance and quality control procedures to promote and maintain the accuracy and reliability of environmental measurements and test results. An effective Quality System includes a Quality Assurance Project Plan (QAPP) based on guidance provided by the USEPA Guidance for Quality Assurance Project Plans (QA/G-5 May 2006), or American National Standard ASQ/ANSI E4:2014: Quality management systems for environmental information and technology programs—Requirements with guidance for use, approved February 4, 2014.
 - The fulfillment of the data verification, validation, and usability component of QAPP is to be documented in a Data Usability Assessment Report (DUAR).

- c. Performed by a laboratory certified by the New York State Department of Health (NYS DOH) under the Environmental Laboratory Approval Program (ELAP) pursuant to Section 502 of the Public Health Law. This requirement shall not apply to specific parameters where NYS DOH ELAP has not issued a certificate for the specific parameter.
 - d. Performed in a manner that ensures all requisite quality control and calibration requirements are met, including field testing, sample collection, preservation, and record-keeping. Basic quality assurance and quality control requirements defined in 40 CFR Part 136.7 shall be followed as well as any specific method requirements.
 - e. Required to submit environmental monitoring data electronically to US EPA Water Quality Exchange (WQX) following the guidance as set by US EPA's WQX Submission Instructions.
 - f. Covered under the Publicity clause (article IV.G) of the Master Contract for Grants – Standard Terms and Conditions. Specifically, the Contractor agrees that any work products, including but not limited to, water quality data or environmental information; measured, generated, or developed under this contract shall not be released, published, cited, or shared in draft or final form without prior written authorization from the Department.
 - g. At a minimum, performed in accordance with water quality standards in 6 NYCRR Part 703 and/or guidance values in Technical and Operational Guidance Series (TOGS) 1.1.1. Projects designed to assess water quality or inform regulatory decisions must measure parameters with applicable water quality standards and/or guidance values.
11. **Federal Grant Match.** The Department reserves the right to use some or all funding paid to the Contractor via this Contract as match for federal grants that the Department either has already received or may receive in the future, or as match for federal grants received by partner organizations collaborating with the Department. To ensure that the Department, the Contractor, and partner organizations comply with federal grant rules, the Contractor shall request approval from the Department if the Contractor wishes to use this funding as match for its own federal grant(s).

IV. Additional Requirements for Wastewater Treatment Projects

1. **Eligible Costs.** Eligible grant and match costs include.
 - a. Salaries and fringe benefits
 - b. Contractual costs
 - c. Equipment
 - d. Supplies and materials
 - e. Construction inspection (on-site activities typically performed by a licensed professional engineer, e.g. inspection of methods and materials)
 - f. For CSO/SSO category only, costs to repair privately owned sewer laterals attached to the collection system
 - g. Administrative costs directly related to implementing the project. The following are examples of eligible administrative costs:
 - i. Procuring sub-contractors needed to implement the project
 - ii. Procuring materials needed to implement the project
 - iii. Contacting municipalities to schedule projects
 - iv. Reviewing and paying invoices for materials and sub-contractors associated with the project.
2. **Ineligible Costs.** The following costs are NOT eligible for match or grant reimbursement.
 - a. Planning, design, specification, and engineering costs
 - b. Construction oversight (e.g. monitoring the schedule and budget, contract performance, and quality control)
 - c. Non-construction costs incurred during the construction phase of the project

- d. Indirect costs (e.g. travel, space/property rent, utilities, office supplies)
 - e. Administrative costs not directly related to implementing the project. The following are examples of ineligible administrative costs:
 - i. Preparing, completing, and submitting the WQIP application for funding.
 - ii. Preparing, completing, and submitting information and documents needed to execute a contract with the Department.
 - iii. Preparing, completing, and submitting information to the Department for progress reports, payment requests, and contract amendments.
 - iv. Preparing, completing, and submitting environmental regulatory approvals/permits needed to implement the project.
 - f. Legal fees
 - g. Costs associated with establishing a sewer district
 - h. Pre- and post-construction monitoring and sampling
 - i. Costs incurred outside the start and end date of the contract
 - j. Projects also being funded through the State Septic System Replacement Funds
 - k. Applications for planning or to create a study
3. **Required Match.** For High Priority wastewater treatment projects, the Contractor must provide at least 25% of the award amount as match for the project. For Secondary Priority wastewater treatment projects, the Contractor must provide at least 60% of the award amount as match for the project. The match cannot be paid with state funding.
 4. **Landowner Agreements.** The Contractor must own the property, or obtain an applicable access agreement, for the proposed project site.
 - a. If the property owner is a municipality – A resolution by the municipality supporting the project.
 - b. If the property is not owned by the Contractor – a formal written agreement between the Contractor and landowner which allows the Contractor access to the property, and represent the landowner, to accomplish the proposed project.
 5. **30-Year Useful Life.** The Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation and maintenance of the Project satisfactory to the Department, including, but not limited, to retaining a sufficient number of qualified staff and ensuring performance of required tests and requirements. After completion of the Project, the Contractor shall, for a period of thirty (30) years unless another period of time is specified in the attached Work Plan (the useful life of the Project as provided in the State Finance Law §61)), operate the Project or otherwise cause the Project to be operated properly in a sound and economical manner and shall maintain, preserve and keep the Project, or cause the Project to be maintained, preserved and kept, in good repair, working order and condition and shall make, or cause to be made, all necessary and proper repairs, replacements and renewals from time to time, so that at all times the Project may be operated properly in a manner consistent with the Project performance standards contained in the engineering report or facilities plan for the Project, with this Contract and with the requirements of any related permit or other governmental approval of the Project. This requirement and any associated responsibilities shall survive the term of this contract.
 6. **Project Imagery.** If requested, upon completion of the Wastewater Treatment project, contractor shall provide the Department with a high-resolution image (minimum 300 dots per inch) of the completed project and grant to the Department the right to make an unlimited number of copies and publish the image in Department publications without charge or restriction.

V. Additional Requirements for Salt Storage Projects

1. **New York State Office of General Services Design and Construction Specifications.** The Contractor agrees to use NYS Office of General Services design and construction specifications for salt storage construction projects. <https://online.ogs.ny.gov/DNC/MasterSpec04/MasterSpecListing.asp?Div=13>

- a Section 133423 - Rectangular Salt Storage Structure, Parts 1.02, 1.03, 1.04, 1.05 and 1.06
- b Section 133424 - Dome Salt Storage Structure, Parts 1.02, 1.03, 1.04, 1.05 and 1.06

2 Eligible Costs. Eligible grant and match costs include:

- a. Costs related to the construction of the salt or salt/sand mixture storage structure
- b. Planning, design, and construction oversight costs (total may not exceed 20% of the award amount)
- c. Construction of access road and impervious pad surrounding the structure necessary to load and unload salt
- d. Administrative costs directly related to implementing the project. The following are examples of eligible administrative costs:
 - i. Procuring sub-contractors and materials needed to implement the project.
 - ii. Contacting municipalities to schedule projects
 - iii. Reviewing and paying invoices for materials and sub-contractors associated with the project.

3 Ineligible Costs. The following costs are NOT eligible for match or grant reimbursement

- a. Planning and design costs greater than 20% of the award amount
- b. Costs incurred outside of the start and end date of the contract
- c. Legal fees
- d. Costs for stormwater controls that are required under the SPDES General Permit for Construction Activities
- e. Indirect costs (e.g. space/property rent, utilities, office supplies, additional maintenance facilities, etc.)
- f. Pre- and post-construction monitoring and sampling.
- g. Administrative costs not directly related to implementing the project. The following are examples of ineligible administrative costs:
 - i. Preparing, completing, and submitting the WQIP application for funding
 - ii. Preparing, completing, and submitting information and documents needed to execute a contract with the Department
 - iii. Preparing, completing, and submitting information to the Department for progress reports, payment requests, and contract amendments
 - iv. Preparing, completing, and submitting environmental regulatory approvals/permits needed to implement the project.

4 Required Match The Contractor must provide at least 50% of the award amount as match for the project. The match cannot be paid with state funding.

5 Landowner Agreements. The Contractor must own the property, or obtain an applicable access agreement, for the proposed project site

- a. If the property owner is a municipality – A resolution by the municipality supporting the project
- b. If the property is not owned by the Contractor – a formal written agreement between the Contractor and landowner which allows the Contractor access to the property, and represent the landowner, to accomplish the proposed project.

6. 30-Year Useful Life The Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation and maintenance of the Project satisfactory to the Department, including, but not limited, to retaining a sufficient number of qualified staff and ensuring performance of required tests and requirements. After completion of the Project, the Contractor shall, for a period of thirty (30) years unless another period of time is specified in the attached Work Plan (the useful life of the Project as provided in the State Finance Law §61), operate the Project or otherwise cause the Project to be operated properly in a sound and economical manner and shall maintain, preserve and keep the Project, or cause the Project to be maintained, preserved and kept, in good repair, working order and condition and shall make, or cause to be made, all necessary and proper repairs.

replacements and renewals from time to time, so that at all times the Project may be operated properly in a manner consistent with the Project performance standards contained in the engineering report or facilities plan for the Project, with this Contract and with the requirements of any related permit or other governmental approval of the Project. This requirement and any associated responsibilities shall survive the term of this contract.

- 7 **Project Imagery.** If requested, upon completion of the Salt Storage project, contractor shall provide the Department with a high-resolution image (minimum 300 dots per inch) of the completed project and grant to the Department the right to make an unlimited number of copies and publish the image in Department publications without charge or restriction.

VI. Additional Requirements for Non-Agricultural Nonpoint Source Abatement and Control projects

- 1 **Eligible Costs.** Eligible grant and match costs include
 - a. Equipment
 - b. Equipment operating expenses
 - c. Contractual services
 - d. Construction
 - e. Construction inspection
 - f. Personal services (e.g. salaries and fringe benefits)
 - g. Travel
 - h. Planning, design, administrative, and construction oversight costs (total may not exceed 20% of award amount)
 - i. Administrative costs directly related to implementing the project. The following are examples of eligible administrative costs.
 - i. Procuring sub-contractors and materials needed to implement the project.
 - ii. Contacting municipalities to schedule projects.
 - iii. Reviewing and paying invoices for materials and sub-contractors associated with the project.
- 2 **Ineligible Costs.** The following costs are NOT eligible for match or grant reimbursement
 - a. Land purchases
 - b. Indirect costs (e.g. space/property rent, utilities, office supplies)
 - c. Legal fees
 - d. Costs incurred outside the start and end date of the contract
 - e. Pre- and post-construction monitoring and sampling
 - f. Aquatic vegetation harvesting
 - g. Algaecides
 - h. Water circulators, bubblers, or other equipment designed to move water
 - i. Administrative costs not directly related to implementing the project. The following are examples of ineligible administrative costs
 - i. Preparing, completing, and submitting the WQIP application for funding
 - ii. Preparing, completing, and submitting information and documents needed to execute a contract with the Department
 - iii. Preparing, completing, and submitting information to the Department for progress reports, payment requests, and contract amendments
 - iv. Preparing, completing, and submitting environmental regulatory approvals/permits needed to implement the project
- 3 **Required Match.** The Contractor must provide at least 25% of the award amount as match for the project. The match cannot be paid with state funding.
- 4 **Landowner Agreements.** The Contractor must own the property, or obtain an applicable access agreement, for the proposed project site

- a. If the property owner is a municipality – A resolution by the municipality supporting the project
 - b. If the property is not owned by the Contractor – a formal written agreement between the Contractor and landowner which allows the Contractor access to the property, and represent the landowner, to accomplish the proposed project
5. **20-Year Useful Life (nonpoint source projects, except hydro-seeding which is 5 years)**
SFL §61 provides useful life expectancies for things such as culverts and environmental restoration projects. Here the Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation and maintenance of the Project satisfactory to the Department. After completion of the Project, the Contractor shall, for a period of twenty (20) years unless another period of time is specified in the attached Work Plan (the useful life of the Project as provided in the State Finance Law §61)), operate the Project or otherwise cause the Project to be operated properly in a sound and economical manner and shall maintain, preserve and keep the Project or cause the Project to be maintained, preserved and kept, in good repair, working order and condition and shall make, or cause to be made, all necessary and proper repairs, replacements and renewals from time to time, so that at all times the Project may be operated properly in a manner consistent with the Project performance standards contained in the engineering report or facilities plan for the Project, with this Contract and with the requirements of any related permit or other governmental approval of the Project. This requirement and any associated responsibilities shall survive the term of this contract.
6. **10-Year Useful Life (Transportation Capital Facilities).** As defined in SFL Article 5, Section 61, Transportation Capital Facilities, the Contractor agrees that it is fully responsible for ensuring proper and efficient monitoring, operation and maintenance of any surface transit motor vehicle (e.g., vacuum truck) purchased with WQIP funding for ten years after date of purchase.
7. **Project Imagery.** If requested, upon completion of the Nonpoint Source project, contractor shall provide the Department with a high-resolution image (minimum 300 dots per inch) of the completed project and grant to the Department the right to make an unlimited number of copies and publish the image in Department publications without charge or restriction.

VIII. Additional Requirements for Aquatic Connectivity Restoration Projects

1. **Eligible Costs.** Eligible grant and match costs include:
- a. Salaries and fringe benefits
 - b. Contractual services
 - c. Travel
 - d. Equipment/materials
 - e. Planning, design, administrative costs, and construction oversight (total may not exceed 20% of award amount)
 - f. Monitoring costs (total may not exceed 20% of award amount)
 - g. Construction inspection
 - h. Maintenance
 - i. Reconstruction, revitalization, and rejuvenation activities
 - j. Administrative costs directly related to implementing the project. The following are examples of eligible administrative costs:
 - i. Procuring sub-contractors and materials needed to implement the project.
 - ii. Contacting municipalities to schedule projects
 - iii. Reviewing and paying invoices for materials and sub-contractors associated with the project.
2. **Ineligible Costs.** The following costs are NOT eligible for match or grant reimbursement:
- a. Costs incurred outside the start and end dates of the contract
 - b. Planning and design costs greater than 20% of the award amount
 - c. Monitoring costs greater than 20% of award amount
 - d. Indirect costs (e.g. space/property rent, utilities, and other office supplies)

- e. Legal fees
 - f. Administrative costs not directly related to implementing the project. The following are examples of ineligible administrative costs:
 - i. Preparing, completing, and submitting the WQIP application for funding
 - ii. Preparing, completing, and submitting information and documents needed to execute a contract with the Department
 - iii. Preparing, completing, and submitting information to the Department for progress reports, payment requests, and contract amendments
 - iv. Preparing, completing, and submitting environmental regulatory approvals/permits needed to implement the project
3. **Required Match.** The Contractor must provide at least 25% of the award amount as match for the project. The match cannot be paid with state or federal funding.
4. **Landowner Agreements.** The Contractor must own the property, or obtain an applicable access agreement, for the proposed project site
- c. If the property owner is a municipality – A resolution by the municipality supporting the project.
 - d. If the property is not owned by the Contractor – a formal written agreement between the Contractor and landowner which allows the Contractor access to the property, and represent the landowner, to accomplish the proposed project.
 - e. If the Contractor is a not-for-profit implementing a project on municipal property – a signed Municipal Endorsement. A municipal endorsement provides authorization for the not-for-profit to conduct the proposed project on municipal property.
5. **30-Year Useful Life.** The Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation and maintenance of the Project satisfactory to the Department, including, but not limited, to retaining a sufficient number of qualified staff and ensuring performance of required tests and requirements. After completion of the Project, the Contractor shall, for a period of thirty (30) years unless another period of time is specified in the attached Work Plan (the useful life of the Project as provided in the State Finance Law §61)), operate the Project or otherwise cause the Project to be operated properly in a sound and economical manner and shall maintain, preserve and keep the Project or cause the Project to be maintained, preserved and kept, in good repair, working order and condition and shall make, or cause to be made, all necessary and proper repairs, replacements and renewals from time to time, so that at all times the Project may be operated properly in a manner consistent with the Project performance standards contained in the engineering report or facilities plan for the Project, with this Contract and with the requirements of any related permit or other governmental approval of the Project. This requirement and any associated responsibilities shall survive the term of this contract.
6. **Project Imagery.** If requested, upon completion of the Aquatic Habitat Restoration project, contractor shall provide the Department with a high resolution image (minimum 300 dots per inch) of the completed project and grant to the Department the right to make an unlimited number of copies and publish the image in Department publications without charge or restriction.

IX. Additional Requirements for Land Acquisition Projects

- A. "Land acquisition projects" means open space acquisition projects undertaken with willing sellers including, but not limited to, the purchase of conservation easements, undertaken by a municipality, a not-for-profit corporation, or purchase of conservation easements by a soil and water conservation district
- B. All land acquisition projects shall be undertaken only in the state of New York and subject to New York State laws

- C. In accordance with New York State Finance Law Section 163(9)(f) and article IV.B 4 of the Standard Terms and Conditions of this Contract, landowners are considered sub-contractors of the Contractor and any landowner receiving \$100,000 or more is required to submit a Vendor Responsibility Questionnaire.
- D. The commissioner is authorized to provide state assistance to municipalities, not-for-profit corporations and soil and water conservation districts to undertake land acquisition projects for source water protection, in cooperation with willing sellers. Land acquisition projects for source water protection shall support, expand or enhance drinking water quality protection, including but not limited to aquifers, watersheds, reservoirs, lakes, rivers and streams.
- E. 1. Any buffer encumbered by a conservation easement acquired pursuant to ECL §15-3303 that encumbers lands used in agricultural production as defined in section three hundred one of the agriculture and markets law in a county designated state certified agricultural district created under section three hundred three of the agriculture and markets law may allow agricultural activity that qualifies such lands, provided such activity on such lands does not impair drinking water and complies with an agricultural environmental management program plan developed by the state soil and water conservation committee, in partnership with the department.
2. Notwithstanding any limitations provided herein on lands acquired pursuant to ECL Article 15 Title 33 a license of easement may be granted by the owner of such property to a public utility for a public purpose.
- F. 1. No state assistance may be provided pursuant to ECL §15-3303 to fund any land acquisition project which is undertaken by eminent domain unless such process is undertaken with a willing seller.
2. The department shall not provide funding pursuant to ECL §15-3303 for any land acquisition project for source water protection by a not-for-profit corporation, if any town, village or city within which such a project is located, by resolution, within ninety days of notification by such corporation of its interest in acquiring such projects, objects to such acquisition
1. A not-for-profit contractor shall notify any town, village or city within which such a project is located of its interest in acquiring such project and inform them they have 90 days to object by resolution.
 2. A not-for-profit contractor shall provide the Department with copies of such notifications and all responses received from any town, village or city, or certify to the Department that no responses were received within 90 days.
- G. Upon approval of the Department, an applicant who acquired an interest in real property using monies obtained through this program may sell, lease, exchange or donate the real property to a not-for-profit or municipality, who will continue to use the real property for the same public purpose, without an express act of the New York State Legislature. Any sale, lease, exchange or donation which will result in the real property no longer having a public purpose must be approved by an express act of the New York State legislature.
- H. In the event that a municipality or not-for-profit sells property which was acquired with funds made available pursuant to ECL Article 15 Title 33, other new lands must be acquired, and the following must be met.
1. parcel(s) must be of equal environmental and source water value,
 2. parcel(s) must be equal to or greater than the original purchase amount, excluding
 - a. award fees match, and
 - b. any stewardship & monitoring expenses incurred, and
 3. value of the new parcel(s) must account for inflation of the original parcel(s).
- The Department must review and approve the proposed acquisition of a new parcel(s) prior to the sale of the original parcel. This requirement shall remain in effect beyond the term of this contract.

- I. If the state acquires a real property interest in land purchased by a municipality or not-for-profit with funds made available pursuant to ECL Article 15 Title 33, the state shall pay the fair market value of such interest less the amount of funding provided by the state pursuant to ECL §15-3303.
- J. Contractor agrees to provide the Department with a shape file based on the boundary survey in the projection UTM Zone 18N, NAD 83. Meters suitable for locating acquired parcels on a geographical information system platform.
- K. In Perpetuity Useful Life The Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation and maintenance of the Project satisfactory to the Department in perpetuity. This requirement and any associated responsibilities shall survive the term of this contract.

L. Land Purchase and Conservation Easement Requirements

The Department will thoroughly review all documentation and only reimburse for land purchases and conservation easements that provide for the protection of source water as set forth in Title 33 of Article 15 of the Environmental Conservation Law (ECL). The following are conditions of land acquisitions, including match or donated parcels.

1. Conservation easement must include all necessary requirements to fulfill the objective of ECL Article 15, Title 33
2. Lands currently protected by a federal or state easement program are not eligible for funding under this grant.
3. Conservation easements must be acquired in perpetuity. Contractor is expected to make use of the WQIP Land Acquisition Conservation Easement Template
4. Conservation easements must be acquired pursuant to Article 49, Title 3 of the New York State Environmental Conservation Law
5. If the property is used for activities which interfere with the accomplishment of approved purposes, the violating activities must cease, and any resulting adverse effects must be remedied
6. Contractor must describe in detail protocols for stewardship, monitoring and enforcement of properties or easements as part of their work plan.
7. Upon request by the Department, the Contractor's monitoring and enforcement protocol and associated property are subject to inspection. This requirement shall remain in effect beyond the term of this contract.
8. Monitoring and enforcement of properties or easements obtained with funding from this contract may be performed by a subcontractor. The subcontractor's role and responsibilities must be outlined in this contract's work plan.
9. Public access and passive recreational activities (e.g. hiking trails) will be reviewed and approved by DEC on a case-by-case basis. The contractor must provide written documentation that public access would not have an impact to the drinking water supply. In the case of a municipality, this documentation is to be provided at the earliest date practicable but not later than 120 days prior to closing. In the case of a Not-for-Profit or Soil and Water Conservation District, documentation shall be provided concurrently with notification of the municipality of its interest in acquiring such projects.
 1. Documentation must contain a thorough description and maps showing access points, proposed activities, and proximity to the water supply.
10. Agricultural Environmental Management (AEM) Tier 2 Assessment or Tier 3 Plan is required for acquisitions that will have areas designated for agricultural use. AEM plans may be developed, reviewed, and monitored by a qualified subcontractor.
11. Contractor agrees to provide a summary of existing property conditions prior to easement acquisition signed by both seller and Contractor in the form of a baseline data report. The baseline data for any conservation easement must be finalized and signed by both seller and Contractor prior to recording of the conservation easement document.
12. Phase I environmental assessment reports are required for lands acquired in fee and conservation easements and must be completed by a qualified consultant. The Phase I report must be reviewed and approved by DEC prior to reimbursement.

- 13 Appraisals must be provided and approved by DEC prior to reimbursement. Appraisals must be completed by a state general certified appraiser following the Uniform Standards of Professional Appraisal Practice (USPAP). Contractor agrees to submit non-restricted appraisal reports according to DEC Appraisal standards (available upon request). Two appraisals are required when appraised value is over \$300,000.
- 14 Boundary surveys are required for all properties and shall identify the protected property and any exclusion areas that are not protected. Surveys must be completed by a professional land surveyor licensed to practice in New York and must be recorded in the County Clerk's office as an attachment to the deed.
- 15 Title Insurance Policy. Title insurance should insure both the Contractor and the New York State Department of Environmental Conservation. title commitment should be delivered to the Department no less than 30 days prior to closing.
- 16 Review and final approval from the Department for items 1-14 above is required prior to closing. If the closing has already taken place, review and final approval from the Department of items 1-13 above is required immediately following execution of this contract. DEC will have at least 120 days to review and approve or disapprove the parcel(s) being proposed. If recording takes place prior to DEC approval, a correction easement or deed may be required if all requirements have not been met.
- 17 Appraisals, surveys, title report and insurance, baseline data and easement language (if applicable), AEM Tier 2 assessment or Tier 3 plan (if applicable), and Phase I environmental assessments will be reviewed by DEC. No reimbursement will be made until approval is given by DEC.
- 18 Deeds or conservation easements must contain a "Notice of Grant Agreement." Draft easements and deeds must be provided to DEC prior to recording to confirm their inclusion in same. If closing occurs without the required language, a correction easement and deed will be required and proof of same provided prior to reimbursement. The Contractor will be provided with required notice language.
- 19 Donated properties for the purposes of match are subject to items 1-17 above.
- 20 PDFs of the final recorded deeds with boundary surveys, recorded conservation easements, baseline data with signature pages, and Phase I environmental assessments will be provided to DEC prior to reimbursement.

M. Riparian Buffer Requirements (Projects or Programs)

- 1 Riparian buffers must be vegetated using only native trees, shrubs and grasses appropriate for site conditions.
- 2 Riparian buffers must have a minimum width of 300 feet, measured from the edge of the streambank, shoreline or bluffs, if they are adjacent to tributaries, reservoirs, lakes, or ponds, or equal to 300 ft from the wellhead.
- 3 For newly created or restored buffers, the contractor must develop and implement a maintenance plan during the buffer establishment period, defined as 3-5 years after planting of vegetation.
- 4 Streambanks must be stable prior to creation or restoration of riparian buffers.
- 5 Selective cutting of trees, removal of invasive species, or supplemental planting of trees, shrubs, or grasses are allowed provided they improve habitat and function of the riparian buffer or remove, mitigate, or warn against unreasonable harm to people, property or health of native species on or around the defined riparian buffer area.
- 6 Disturbances that compromise the ecological condition of the riparian buffer area, including, but not limited to, livestock access to the riparian buffer, wood or timber harvesting, excessive mowing and recreational vehicular use must be prohibited, except as allowed by Article XI D above.
- 7 Field drains through the riparian buffer shall not be allowed. Existing field drains shall be terminated prior to entering the riparian buffer in a manner which will allow infiltration of field drain discharge.

N. Wetland Requirements

- 1 Project work plan must describe how the work in and near wetlands will protect drinking water supplies and provide improved wetland function.
- 2 Work within or immediately adjacent to existing wetlands must be limited to activities that will improve wetland function. Disturbances that compromise ecological functions are ineligible for funding.
- 3 Projects cannot mitigate for impacts to regulated wetlands. Wetland mitigation projects are ineligible for funding.

4. The Contractor must develop and implement a maintenance plan for any wetland creation or enhancement. The maintenance plan must include protocols for addressing problems for a minimum of 3 years following creation or enhancement.

O. Eligible expenses include administrative and transactional costs (e.g. property surveys, land appraisals, staff time devoted to the project) and the value of the land or conservation easement to be acquired by the grantee.

1. The value of the land or conservation easement being acquired, provided such value associated with the purchase of the property or purchase of a conservation easement is no greater than the value from an appraisal deemed acceptable by DEC. DEC has the discretion and may on rare occasions reimburse at a price above the highest approved independent appraisal provided: 1) the price was the result of documented negotiations between the Contractor and the seller and 2) the Contractor demonstrated the unique resource value and how it accomplishes the objective of this program.
2. Transactional costs acceptable by DEC, provided they result in final acquisition of land or perpetual conservation easement and/or restoration of new riparian buffers and are limited to: title reports, title insurance, property surveys, appraisals, certified appraisal review, easement holder and landowner's legal fees to negotiate/close the conservation easement transaction and to review title reports and, as necessary, prepare title curatives, filing fees, or other Department-approved closing costs, map and GIS/photo scanning data, environmental assessments, baseline documentation reports, stewardship or management plans, easement stewardship fee, project specific defense liability insurance fees, property taxes, and State or local real estate transfer taxes.
3. Staff salaries directly devoted to or connected to the program, excluding indirect (overhead/operating) expenses (Grantees will be required to document time works, tasks, pay rate and payment, and itemize salaries according to job title and roles/responsibilities on the program). Personal services and planning costs cannot exceed a total of 25% of the award amount.
4. Riparian buffer or wetland restoration costs deemed acceptable by DEC. "Soft" streambank stabilization practices including but not limited to, live staking, contour wattling, erosion control matting, and root wads, are eligible for funding as part of riparian buffer restoration. Riparian Buffer Design, restoration, and implementation and/or field drain restoration (including equipment rental) costs cannot exceed a total of 25% of the award amount.
5. Value of contractual services provided by professional and technical personnel and consultants (i.e., surveys, plans and specifications, research, design and development of a project, consultant and legal services directly related to a project, feasibility study for a property, etc.). Personal services and planning costs cannot exceed a total of 25% of the award amount.
6. Supplies and materials directly necessary to implement individual projects.
7. Travel Costs (within New York State) directly associated and required to implement the program.

P. Ineligible costs:

1. Out-of-state travel costs, and any travel not directly required to implement the program;
2. Project or program costs funded from other state funding sources,
3. Indirect costs, including overhead/operating expenses (space, rent, utilities),
4. Costs incurred outside the start and end date of the contract,
5. Endowment funds;
6. Major capital expenditures, such as computers;
7. Restoration projects that include hard armoring of streambanks, including stone rip rap;
8. Costs exceeding the maximum allowable percentage for that type of cost as listed above,
9. Wetland mitigation projects;
10. Construction oversight,
11. Projects to acquire land for a new wetland.
12. Acquisition of land that is known, or highly suspected of being contaminated (e.g. where past contamination is not uncommon),

13. Any remediation/restoration work associated with removal of contaminants (e.g. hazardous waste, petroleum products),
14. Phase II environmental assessment reports, unless requested by the Department;
15. Land determined to be contaminated in either a Phase I or Phase II environmental assessment report shall be reimbursable at the Department's sole discretion. If conditions are considered unacceptable, the Department will notify the Contractor within 30 days of receipt of the environmental assessment report;
16. Costs associated with water withdrawal permit modification (e.g. completion of engineering reports, water withdrawal program forms).
17. Improvements to public access;
18. Interest payments;
19. Forest management plans;
20. Agricultural Environmental Management (AEM) assessments or plans; and
21. Nutrient management plans.
22. This list is not all encompassing. There may be other costs that the Department may deem ineligible when reviewing payment documentation from the Contractor.

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

SUMMARY

PROJECT NAME:

Schenectady County - Vacuum Truck in MSA areas

CONTRACTOR SFS PAYEE NAME:

SCHENECTADY COUNTY OF

CONTRACT PERIOD:

From: 07/22/2022

To: 07/22/2023

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
1. Personal Services					
a) Salary	\$0.00	\$0.00	0 %	\$0.00	\$0.00
b) Fringe	\$0.00	\$0.00	0 %	\$0.00	\$0.00
Subtotal	\$0.00	\$0.00	0 %	\$0.00	\$0.00
2. Non Personal Services					
a) Contractual Services	\$0.00	\$0.00	0 %	\$0.00	\$0.00
b) Travel	\$0.00	\$0.00	0 %	\$0.00	\$0.00
c) Equipment	\$325,000.00	\$111,000.00	34 %	\$0.00	\$436,000.00
d) Space/Property & Utilities	\$0.00	\$0.00	0 %	\$0.00	\$0.00
e) Operating Expenses	\$0.00	\$0.00	0 %	\$0.00	\$0.00
f) Other	\$0.00	\$0.00	0 %	\$0.00	\$0.00
Subtotal	\$325,000.00	\$111,000.00	34 %	\$0.00	\$436,000.00
TOTAL	\$325,000.00	\$111,000.00	34 %	\$0.00	\$436,000.00

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

PERSONAL SERVICES DETAIL

DESCRIPTION	APPROPRIATION	REVENUE	REVENUE	REVENUE	PERCENT SUP REVENUE APPROPRIATION	NUMBER OF MONTHS FUNDED	TOTAL
Subtotal							
PERSONAL SERVICES TOTAL							

Model 900 ECO 12 yard Combination Sewer Cleaner (TBD)		9436,000.00
TOTAL		9436,000.00

Supplies	
TOTAL	

			TOTAL

Contract Number: # DE01-CM490G-335000
Page 7 of 7, Attachment B-1 - Expenditure Based Budget

ATTACHMENT C - WORK PLAN

SUMMARY

PROJECT NAME

Schenectady County - Vacuum Truck in MS4 areas

CONTRACTOR/SFS PAYEE NAME

SCHENECTADY COUNTY OF

CONTRACT PERIOD

From 07/22/2022

to 07/22/2023

Project Summary A high-level overview of the project, including the overall goal and desired outcomes.

The overall goal of purchasing this Vacuum truck will allow Schenectady County to continue to maintain and improve its existing storm sewer/water systems which includes features such as catch basins, the stormwater conveyance system, and outfalls. Schenectady County storm sewer/water system contains approximately 750 catch basins, number of miles of stormwater conveyance pipe and 233 outfalls. The new vacuum truck will allow Schenectady County to efficiently maintain existing storm sewer/water infrastructure by allowing the removal of sediment, decaying debris and floatables enter the stormwater sewer system. The purpose of the new vacuum truck will also be utilized on County culvert jobs and respond to emergency repairs to maintain and improve existing stormwater infrastructure. In addition, the new vacuum truck will be aided by a Water Quality Improvement Program (WQIP) Round 13 grant for a Comprehensive Mapping Program, which is currently underway within all municipalities within the County. The Comprehensive Mapping Program is designed to provide critical missing data to the County's MS4 Storm sewer system WQIP project contributes to a comprehensive and coordinated approach through County's service contract with the Towns, including Niskayuna, Rotterdam, Glenville, Scotia, Princetown and Duanesburg. Combined with all towns' MS4 common goals and activities, actually

ATTACHMENT C - WORK PLAN

DETAIL

1	Vacuum Truck purchase for Schenectady County MS4 area - Schenectady County was awarded with DBC WQIP 17 grant funding to purchase a Vacuum truck by 12/31/2023 to service and maintain MS4 area of eight (8) municipalities.
1 1	Vacuum Truck purchase for Schenectady County MS4 area - Schenectady County was awarded with DBC WQIP 17 grant funding to purchase a Vacuum truck by 12/31/2023 to service and maintain MS4 area of eight (8) municipalities.

Performance Measures

- 1.1.1 Vacuum Truck purchase for Schenectady County MS4 area - Schenectady County was awarded with DBC WQIP 17 grant funding to purchase a Vacuum truck by 12/31/2023 to service and maintain MS4 area of eight (8) municipalities

**ATTACHMENT D
PAYMENT AND REPORTING SCHEDULE**

PAYMENT PROVISIONS

In full consideration of contract services to be performed the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on this Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Advance Payment, Initial Payment and Recompment Language (if applicable):

1. The State Agency will make an advance payment to the Contractor, during the initial period, in the amount of 25 percent (25%) the budget as set forth in the most recently approved applicable Attachment B form (Budget).
2. The State Agency will make an initial payment to the Contractor in the amount of ___ percent (___ %) of the annual budget as set forth in the most recently approved applicable Attachment B form (Budget). This payment will be no later than ___ days from the beginning of the budget period.
3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period	Amount	Due Date

4. Recompment of any advance payment(s) or initial payment(s) shall be recovered by crediting (100%) of subsequent claims and such claims will be reduced until the advance or initial payment is fully recovered within the contract period.

B. Interim and/or Final Claims for Reimbursement

Claiming Frequency: Quarterly Reimbursement
Number of Days/Claims: 30

For Quarterly, Monthly and Biannual Reimbursement Claim Frequency, the above field represents the number of days after the claim period that the claim is due to the State from the Grantee.

For Interim Reimbursement as Requested by Contractor the Number of Days/Claims is not applicable.

For all other selected Claim Frequency, the Number of Days/Claims represents the number of claims due under the contract and listed in the table below.

Expenditure Period Dates		Due Date
From	To	

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract.

Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than ___ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

Expenditure Report

The Contractor will submit, on a quarterly basis, not later than ___ days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 60 days after the end of the contract period.

Consolidated Fiscal Report (CFR)

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year, for Upstate and Long Island contractors, the due date shall be November 1 of each year.

1

The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

Contract Number # DEC91-C91490GG-335000

Page 3, Attachment D - Payment and Reporting Schedule

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (See Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ___ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is ___. The agency shall complete its audit and notify vendor of the results no later than ___. The Contractor shall submit the report not later than ___ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

Contact Number, # DEC01-C01490GG-3350000

Page 4, Attachment D - Payment and Reporting Schedule

TABLE 1 - REPORTING SCHEDULE

REPORTING PERIOD	PERIOD COVERED		Due Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

Contract Number # DEC01-C01490GIG-3350000

Page 5, Attachment D - Payment and Reporting Schedule

ATTACHMENT E - SIGNAGE

Communications with the Public

In any communication to the public, the Department requires that grant recipients acknowledge that funding was provided by a Water Quality Improvement Project Grant and include the following:

- Source of funding: Water Quality Improvement Project Grant administered by the New York State Department of Environmental Conservation.
- Grant recipient name and project name.

Signage Requirements

The Department requires project signs for the following projects:

- All wastewater treatment projects.
- All salt storage projects.
- All land acquisition for source water protection projects.
- Nonpoint source abatement and control, aquatic connectivity restoration, and marine district habitat restoration grants greater than \$50,000.

All signs should be constructed in accordance with the specifications identified herein.

The project sign should be maintained from the start of construction until one year after closeout of the project. For Land Acquisition for Source Water Protection projects, starting from the date of acquisition, the project sign should be maintained in perpetuity.

The cost of the project sign is a reimbursable project cost and should be included in the materials category for the project budget.

For any questions regarding signage requirements, please contact the appropriate program manager before moving forward.

The Department may, in its discretion, waive the signage requirement if the sign cannot be reasonably maintained, the sign is not consistent with other laws, or the location of the sign would not provide a public purpose.

For Land Acquisition for Source Water Protection Projects:

- Starting from the date of acquisition, the project sign should be maintained in perpetuity.
- If boundary signs are being placed, program signage must also be placed next to awardees boundary signs for all fee title and conservation easement acquisitions. If there is any public access on the property, signs must be placed at all points of entry.
- There must be at least one sign for every parcel acquired under this project type.



Sign Specifications for Wastewater Treatment, Salt Storage, Nonpoint Source Abatement and Control, Aquatic Habitat Restoration Projects, and Marine District Habitat Restoration

Note: For Nonpoint Source Abatement and Control, Aquatic Habitat Restoration, and Marine District Habitat Restoration projects, the Department only requires signs for grant awards greater than \$50,000.

- **Size:** Horizontal format 48" wide by 24" tall.
- **Construction Materials:** Aluminum blank sign boards with vinyl sheeting.
- **Inserts:** "Applicant" and "Project Name" indicate position, size and typography for specific project applicant and project names to be inserted.
- **Color Scheme:**
 - **Background** – PMS288C
 - **"BUILDING TODAY FOR A BETTER TOMORROW" graphic:**
 - ① **Rectangular beam** – PMS130C
 - ② **Hooks** – White
 - ③ **Text "BUILDING TODAY FOR"** – PMS288C
 - ④ **Text "A BETTER TOMORROW"** – White
 - **NYS/DEC logo** – White
 - **"Funding for this project provided by a CWIA/EPF Water Quality Improvement Project Grant" graphic** – PMS130C
 - **"Andrew M. Cuomo, Governor" and "Basil Seggos, Commissioner" graphics** – White
 - **TEXT: Project Applicant and Project Name** – White
- **Type Specifications:**
 - **All type is Proxima Nova Bold, 180pt.**
 - **Format is: center each line of copy with title case capitalization.**

Contract Number: #_DEC01 C0X

Page 3 of 3 Attachment E WQIP Signage Requirements December 2017

- **Production Notes:** 48" wide x 24" tall aluminum blanks will be covered with vinyl sheeting for application of artwork. Artwork will be silk screened on this surface.
- **Provided artwork has been sized to 49" x 25" to provide 0.5" bleed area to all edges for print production.**
- **Time Period:** From start of Construction until 1 year after closeout of the project.
- **Grant recipients must provide a project name and the local project sponsor to be inserted on the sign.**

Sign Specifications for Land Acquisition Projects

- **Size:** At minimum, 11" by 11"
- **Construction Materials:** Aluminum blank sign boards with vinyl sheeting.
- **Inserts:** "Applicant" and "Project Name" indicate position, size and typography for specific project applicant and project names to be inserted.
- **Color Scheme:**
 - **Background – PMS288C**
 - **"BUILDING TODAY FOR A BETTER TOMORROW" graphic:**
 - ② **Rectangular beam – PMS130C**
 - ③ **Hooks – White**
 - ④ **Text "BUILDING TODAY FOR" – PMS288C**
 - ⑤ **Text "A BETTER TOMORROW" – White**
 - **NYS/DEC logo – White**
 - **"Funding for this project provided by a CWIA/EPF Water Quality Improvement Project Grant" graphic – PMS130C**
 - **TEXT: Project Applicant and Project Name – White**
- **Type Specifications:**
 - **All type is Proxima Nova Bold, 48pt.**
 - **Format is: center each line of copy with title case capitalization.**
- **Production Notes:** 11" wide x 11" tall aluminum blanks will be covered with vinyl sheeting for application of artwork. Artwork will be silk screened on this surface.
- **Provided artwork has been sized to 11.5" x 11.5" to provide 0.25" bleed area to all edges for print production.**
- **Time Period:** From date of acquisition in perpetuity.
- **Grant recipients must provide a project name and the local project sponsor to be inserted on the sign.**



Schenectady County Legislature

Committee on Ways and Means

Hon. Philip Fields, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: December 30, 2022
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Committee on Ways and Means
Honorable Philip Fields, Chair
Tuesday, January 3, 2023 at 7:00 p.m.
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsors
WM	1 A RESOLUTION AUTHORIZING THE CHARGEBACK OF UNCOLLECTIBLE TAXES TO CERTAIN SCHOOL DISTRICTS	Legislator Fields	
WM	2 A RESOLUTION REGARDING THE PROCESSING OF REAL PROPERTY TAX CORRECTIONS AND REFUNDS FOR THE 2023 CALENDAR YEAR	Legislator Fields	
PFTI	5 A RESOLUTION TO ACCEPT MONIES FROM THE WATER QUALITY IMPROVEMENT PROGRAM OF THE NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE PURCHASE OF EQUIPMENT	Legislator Patierne	

Item	Title	Sponsor	Co-Sponsors
HHHS	1 A RESOLUTION TO ACCEPT MONIES FROM THE NYS DEPARTMENT OF HEALTH FOR A PUBLIC HEALTH CORPS FELLOWSHIP PROGRAM	Legislator Ostrelich	

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Ways and Means
Dual Reference: Ways and Means
Initiative: WM 1

Title of Proposed Resolution:

A RESOLUTION AUTHORIZING THE CHARGEBACK OF UNCOLLECTIBLE TAXES TO CERTAIN SCHOOL DISTRICTS

Purpose and General Idea:

Authorization to Chargeback the Scotia-Glenville Central School District for School Taxes Returned to the County.

Summary of Specific Provisions:

Provides authorization request to charge back the Scotia-Glenville Central School Districts for school taxes previously paid and subsequently deemed as levied and uncollectable on the Town/County tax bill.

Effects Upon Present Law:

Listed are been to for subsequently were below determined to be school taxes erroneously that levied have and, returned therefore, are the County uncollectible on the collection that Town/County tax bill.

Scotia-Glenville Central School District	\$	35.50
Total	\$	35.50

The school districts have been advised that these amounts will be presented to the County Legislature at the January meeting for approval of the chargeback of these taxes back to the school districts.

Justification:

Certain school taxes have been returned to the County for collection that were subsequently determined to be erroneously levied and are therefore uncollectible on the Town/County tax bill.

Sponsor: Legislator Fields

Co-Sponsor:

COUNTY OF SCHENECTADY




RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Jacklyn Falotico, Commissioner of Finance

Date: December 29, 2022

Re: Authorization to Chargeback School Districts for School Taxes Returned to the County

Attached is a memorandum from Jaclyn Falotico, Commissioner of Finance, requesting authorization to chargeback the Scotia-Glenville Central School District for school taxes previously paid and subsequently deemed as levied and uncollectible on the Town/County tax bill.

I recommend your approval.

Memo

To: Rory Fluman, County Manager
From: Jaclyn L. Falotico, Commissioner of Finance *JL*
Date: December 21, 2022
Re: Chargeback to School Districts for School Taxes Returned to the County

Listed below are school taxes that have been returned to the County for collection that subsequently were determined to be erroneously levied and, therefore, are uncollectible on the Town/County tax bill.

Scotia-Glenville Central School District	\$	<u>35.50</u>
Total	\$	<u>35.50</u>

The school districts have been advised that these amounts will be presented to the County Legislature at the January meeting for approval of the chargeback of these taxes back to the school districts.

LEGISLATIVE INITIATIVE FORM

Date: 12/30/2022
Reference: Ways and Means
Dual Reference: Ways and Means
Initiative: WM 2

Title of Proposed Resolution:

A RESOLUTION REGARDING THE PROCESSING OF REAL PROPERTY TAX CORRECTIONS AND REFUNDS FOR THE 2023 CALENDAR YEAR

Purpose and General Idea:

Provides Authorization for the Commissioner of Finance to Administratively Process Certain Tax Corrections and Refunds.

Summary of Specific Provisions:

Requests authorization to delegate the authority to process tax corrections and refunds that are twenty-five hundred dollars (\$2,500) or less to the Commissioner of Finance for the calendar year 2023..

Effects Upon Present Law:

None.

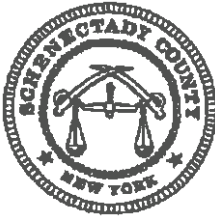
Justification:

Renewing this procedure would allow County and Town officials the ability to issue corrected bills and refunds quickly and effectively. Sections 554(9)(a) and 556(8)(a) of New York State Real Property Tax Law allow the tax levying body to designate an official empowered to authorize payments of bills, without a prior audit of such body, with the ability to approve all tax bills corrections, credits, or refunds that do not exceed \$2,500. The designated official for Schenectady County is the Commissioner of Finance.

Sponsor: Legislator Fields

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager *R.F.*

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Jaclyn Falotico, Commissioner of Finance
Paul Romano, Director of Real Property Tax Service Agency

Date: December 30, 2022

Re: Authorization to Renew the Annual Correction of Errors Procedures under \$2,500

Attached is a memorandum from Paul Romano, Director of Real Property Tax Service Agency, requesting authorization to designate Jaclyn Falotico, the Commissioner of Finance, the ability to approve all corrections, credits, and refunds that do not exceed \$2,500. This renewal would allow County and Town officials to issue corrected bills and refunds more quickly and efficiently. If designated, Jaclyn Falotico must report details of corrections to the legislative body every month.

I recommend your approval.

Memo

To: Rory Flanagan, County Manager

From: Jaclyn Falotico, Commissioner of Finance *JK*

Date: December 28, 2022

Re: Annual Renewal of Authorization of Tax Bill Corrections, Credits and Refunds Under Real Property Tax Law

The Department of Finance respectfully requests that the Schenectady County Legislature authorize the Commissioner of Finance to issue tax bill corrections, credits, or refunds that do not exceed \$2,500. The Schenectady County Legislature provided such authorization in 2019, 2020, 2021, and 2022.

As noted in the memo provided by Paul Romano, Director of the Real Property Tax Service Agency, sections 554(9)(a) and 556(8)(a) of New York State Real Property Tax Law allow the tax levying body to designate an official empowered to authorize payments of bills, without prior audit of such body, with the ability to approve all tax bill corrections, credits, or refunds that do not exceed \$2,500. The designated official for Schenectady County is the Commissioner of Finance. The designated official must report monthly to the legislative body the details of the corrections, credits, or refunds for the preceding month.

Corrections, credits, or refunds exceeding \$2,500 will continue to require legislative authorization via resolution.

The Department of Finance is seeking renewal of this policy for calendar year 2023. This authorization would expire at the end of the calendar year and would require renewal by the Legislature each subsequent year.

Thank you for your consideration.

County of Schenectady
620 State Street, 3rd Floor,
Schenectady, N. Y. 12305
(518) 388-4260
(518) 388-4248 Fax

County Finance

Memo

TO: Jaclyn L. Faktion, Commissioner of Finance

FROM: Paul Romano, Director
Real Property Tax Service Agency *NR*

DATE: December 20th, 2022

RE: Annual Renewal of Correction of Errors Procedures under \$2,500

New York State Real Property Tax Law Sections 554(9)(a) & 556(8)(a) allows the County Legislature to annually designate the Commissioner of Finance the ability to approve all corrections, credits or refunds that do not exceed \$2,500.

Renewing this procedure would allow County & Town officials the ability to issue corrected bills and refunds more quickly and efficiently.

Attached are the referenced sections of RPTL.

We are looking for authorization from the Legislature to enact this procedure again for calendar year 2023.

KPPL 554

9. (a) A tax levying body may, by resolution, delegate to an official who is empowered to authorize payment of bills without prior audit by such body or, in the event there is no official so empowered, to an official responsible for the payment of bills upon audit of the appropriate municipal corporation so designated by it, the authority to perform the duties of such tax levying body, as provided in this section. Such resolution shall only be in effect during the calendar year in which it is adopted and shall designate that such delegation of authority is applicable only where the recommended correction is twenty-five hundred dollars or less, or such other sum not to exceed twenty-five hundred dollars.

KPPL 556

9. (a) A tax levying body may, by resolution, delegate to an official who is empowered to authorize payment of bills without prior audit by such body or, in the event there is no official so empowered, to an official responsible for the payment of bills upon audit of the appropriate municipal corporation so designated by it, the authority to perform the duties of such tax levying body, as provided in this section. Such resolution shall only be in effect during the calendar year in which it is adopted and shall designate that such delegation of authority is applicable only where the recommended refund or credit is twenty-five hundred dollars or less, or such other sum not to exceed twenty-five hundred dollars.